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Compiled by
BION M. GREGORY
Legislative Counsel

CHAPTER 1270

An act to repeal and add Chapter 2 (commencing with Section 799) of Title 3 of Part 2 of the Penal Code, relating to crimes.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

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

SECTION 1. Chapter 2 (commencing with Section 799) of Title 3 of Part 2 of the Penal Code is repealed.

SEC. 2. Chapter 2 (commencing with Section 799) is added to Title 3 of Part 2 of the Penal Code, to read:

CHAPTER 2. TIME OF COMMENCING CRIMINAL ACTIONS

799. Prosecution for an offense punishable by death or by imprisonment in the state prison for life or for life without possibility of parole, or for the embezzlement of public money, may be commenced at any time.

800. Except as provided in Section 799, prosecution for an offense punishable by imprisonment in the state prison for eight years or more shall be commenced within six years after commission of the offense.

801. Except as provided in Sections 799 and 800, prosecution for an offense punishable by imprisonment in the state prison shall be commenced within three years after commission of the offense.

802. Prosecution for an offense not punishable by death or imprisonment in the state prison shall be commenced within one year after commission of the offense.

803. (a) Except as provided in this section, a limitation of time prescribed in this chapter is not tolled or extended for any reason.

(b) No time during which prosecution of the same person for the same conduct is pending in a court of this state is a part of a limitation of time prescribed in this chapter.

(c) A limitation of time prescribed in this chapter does not commence to run until discovery of an offense described in this subdivision. This subdivision applies to an offense punishable by imprisonment in the state prison a material element of which is fraud or breach of a fiduciary obligation or the basis of which is misconduct in office by a public officer, employee, or appointee, including but not limited to the following offenses:

(1) Grand theft of any type, forgery, falsification of public records, or acceptance of a bribe by a public official or a public employee.

(2) A violation of Section 72, 118, 118a, 132, or 134.

(3) A violation of Section 25540 or 25541 of the Corporations Code.

(4) A violation of Section 1090 or 27443 of the Government Code.

(5) Felony welfare fraud or Medi-Cal fraud in violation of Section 11483 or 14107 of the Welfare and Institutions Code.

(d) If the defendant is out of the state when or after the offense is committed, the prosecution may be commenced as provided in Section 804 within the limitations of time prescribed by this chapter, and no time up to a maximum of three years during which the defendant is not within the state shall be a part of those limitations.

804. For the purpose of this chapter, prosecution for an offense is commenced when any of the following occurs:

(a) An indictment or information is filed.

(b) A complaint is filed with an inferior court charging a public offense of which the inferior court has original trial jurisdiction.

(c) A case is certified to the superior court.

(d) An arrest warrant or bench warrant is issued, provided the warrant names or describes the defendant with the same degree of particularity required for an indictment, information, or complaint.

805. For the purpose of determining the applicable limitation of time pursuant to this chapter:

(a) An offense is deemed punishable by the maximum punishment prescribed by statute for the offense, regardless of the punishment actually sought or imposed. Any enhancement of punishment prescribed by statute shall be disregarded in determining the maximum punishment prescribed by statute for an offense.

(b) The limitation of time applicable to an offense that is necessarily included within a greater offense is the limitation of time applicable to the lesser included offense, regardless of the limitation of time applicable to the greater offense.

806. (a) As used in this section, "operative date" means January 1, 1985.

(b) Except as provided in subdivision (c), this chapter applies to an offense that was committed before, on, or after the operative date.

(c) This chapter does not apply, and the law applicable before the operative date does apply, to an offense that was committed before the operative date, if:

(1) Prosecution for the offense would be barred on the operative date by the limitation of time applicable before the operative date.

(2) Prosecution for the offense was commenced before the operative date.

CHAPTER 1271

An act to amend Sections 8254, 8275, 8276, 8277, 8278, 8283, 8500, 9002, 9003, 9010, and 9025 of, to add Sections 8250.5, 8258, 8284, 8400, 8402, and 8403 to, to add Article 18 (commencing with Section 8590) to Chapter 2 of Part 3 of Division 6 of, to repeal and add Section 8282 of, to repeal and add Article 1 (commencing with Section 9000) of Chapter 4 of Part 3 of Division 6 of, and to repeal Sections 8276.5 and 8396 of, the Fish and Game Code, relating to fish and game.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

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

SECTION 1. Section 8250.5 is added to the Fish and Game Code, to read:

8250.5. (a) Subject to this article and Article 1 (commencing with Section 9000) of Chapter 4, a lobster trap, as described in Section 9010, may be used to take lobster for commercial purposes under a lobster permit issued pursuant to Section 8254.

(b) The following species may be taken incidentally in lobster traps being fished under the authority of a lobster permit issued pursuant to Section 8254, and any other species taken incidentally shall be released:

(1) Rock crab, as defined in Section 8275.

(2) California sheephead.

(3) Kellet's whelk.

(4) Octopus.

(c) Spiny lobsters taken in the manner commonly known as skindiving or by a person using self-contained underwater breathing apparatus shall not be sold.

SEC. 2. Section 8254 of the Fish and Game Code is amended to read:

8254. Lobsters may not be taken for commercial purposes except under a revocable, nontransferable permit subject to regulations adopted by the commission.

Every person who takes, assists in taking, possesses, or transports lobsters while on any boat, barge, or vessel, or who uses or operates or assists in using or operating any boat, net, trap, line, or other appliance to take lobsters, shall have a valid lobster permit issued to that person and shall have that permit in his or her possession while engaged in any of those activities.

Lobster permits may be issued annually by the department and shall be valid for the period of the commercial lobster season. The permit fee is one hundred twenty-five dollars ($125). However, any person who has had a lobster permit revoked may be required by the commission to appear before it, and no new lobster permit may be issued to such a person unless the commission finds that the issuance

will be in the best interests of lobster fishing.

The department shall file an annual report with the Legislature not later than the fifth calendar day of each session of the Legislature on the use made of the revenue received in accordance with this section.

SEC. 3. Section 8258 is added to the Fish and Game Code, to read:

8258. Lobster traps may be used to take spiny lobster in Districts 18, 19, 20A, and those portions of District 20 lying on the southerly side of Santa Catalina Island between Southeast Rock and China Point.

SEC. 4. Section 8275 of the Fish and Game Code is amended to read:

8275. Unless the provision or context otherwise requires, the definitions in this section govern the construction of this article.

(a) "Dungeness crab" or "market crab" means crab of the species Cancer magister.

(b) "Rock crab" means any crab other than dungeness crab and includes rock crab (Cancer antennarius), red crab (Cancer productus), and yellow crab (Cancer anthonyi).

SEC. 5. Section 8276 of the Fish and Game Code is amended to read:

8276. Notwithstanding any other provisions of this code or any regulations adopted pursuant to this code:

(a) Dungeness crab may be taken in Districts 6, 7, 8, and 9 only between December 1st and July 15th.

(b) Dungeness crab may be taken in all other districts only between the second Tuesday in November and June 30th.

(c) Dungeness crab may not be taken for commercial purposes in any district, or part of a district, lying within the portions of Crescent City Harbor between the south sand barrier and the breakwater.

SEC. 6. Section 8276.5 of the Fish and Game Code is repealed.

SEC. 7. Section 8277 of the Fish and Game Code is amended to read:

8277. The director may extend the dungeness crab season in any district or part thereof.

Before extending the season, the director shall consider written findings of the department regarding the state of the dungeness crab resource in the district, or part thereof, which consider, but are not limited to, population and maturity. The director may extend the season only if the written findings do not conclude that the extension will damage the dungeness crab resource.

The director shall not extend the dungeness crab season past August 31 in a district, or part thereof, north of the southern boundary of Mendocino County or past July 31 in a district, or part thereof, south of Mendicino County. The director shall order closure of the season at any time during the extension period if the director determines that further fishing will damage the dungeness crab resource.

SEC. 8. Section 8278 of the Fish and Game Code is amended to

read:

8278. Except as otherwise provided, no dungeness crab less than six and one-quarter (6¼) inches in breadth, and no female dungeness crab, may be taken, possessed, bought, or sold, except that not more than 1 percent in number of any load or lot of dungeness crabs may be less than six and one-quarter (6¼) inches in breadth but not less than five and three-quarters (5¾) inches in breadth.

Dungeness crab shall be measured by the shortest distance through the body from edge of shell to edge of shell directly from front of points (lateral spines).

SEC. 9. Section 8282 of the Fish and Game Code is repealed.

SEC. 10. Section 8282 is added to the Fish and Game Code, to read:

8282. Rock crab may be taken in traps in any waters of the state at any time.

SEC. 11. Section 8283 of the Fish and Game Code is amended to read:

8283. Crab traps may be set and baited 18 hours in advance of the opening date of the dungeness crab season if no other attempt is made to take or possess dungeness crab.

SEC. 12. Section 8284 is added to the Fish and Game Code, to read:

8284. (a) Subject to this article and Article 1 (commencing with Section 9000) of Chapter 4, crab traps, as described in Section 9011, may be used to take dungeness crab for commercial purposes. Any fish may be taken incidentally in crab traps being used to take dungeness crab.

(b) Any other species taken incidentally in a crab trap being used to take rock crab, except as provided in this subdivision, shall be released. The following species may be taken incidentally in crab traps being used to take rock crab under a permit issued pursuant to Section 9001 in Districts 19 and 118.5, and any other species taken incidentally with a crab trap being used to take rock crab shall be released:

(1) California sheephead.

(2) Kellet's whelk.

(3) Octopus.

SEC. 13. Section 8396 of the Fish and Game Code is repealed.

SEC. 14. Section 8400 is added to the Fish and Game Code, to read:

8400. (a) California killifish (Fundulus parvipinnis) may be taken for commercial purposes with killifish traps, as described in Section 9020, subject to Article 1 (commencing with Section 9000) of Chapter 4, only in the tidewaters of Districts 3½, 4, 4⅛, 4¾, 15, 16, 17, and 21, in the tidewaters of District 10 south of the City and County of San Francisco, in the Salton Sea, and in Imperial and Riverside Counties.

(b) Mudsuckers (Gillichthys mirabilis) may be taken incidentally with California killifish in any killifish trap, and any other species

taken incidentally shall be immediately released.

SEC. 15. Section 8402 is added to the Fish and Game Code, to read:

8402. (a) Shiner perch (Cymatogaster aggregata) or staghorn sculpin (Leptocottus armatus), or both, may be taken with perch traps, as described in Section 9021, subject to Article 1 (commencing with Section 9000) of Chapter 4, only in Districts 11, 12, and 13 and in the tidewaters of Districts 2 and 2½.

(b) Mudsuckers (Gillichthys mirabilis) may be taken incidentally with shiner perch or staghorn sculpin in any perch trap, and any other species taken incidentally in a perch trap shall be immediately released.

SEC. 16. Section 8403 is added to the Fish and Game Code, to read:

8403. (a) To the extent not in conflict with Section 8607, marine species of fin fish which are classified as groundfish may be taken under the regulations of the commission.

(b) Marine species of fin fish, including, but not limited to, fin fish which are classified as groundfish, may be taken with fin fish traps, subject to Article 1 (commencing with Section 9000) of Chapter 4, under regulations of the commission. The regulations may limit the number of fin fish traps which any vessel may use, designate the areas in which the traps may be used, and prescribe other limitations on the use of fin fish traps.

(c) Any other species not otherwise prohibited may be taken in a fin fish trap.

SEC. 17. Section 8500 of the Fish and Game Code is amended to read:

8500. Except as otherwise expressly permitted in this chapter, no mollusks, crustaceans, or other invertebrates may be taken for commercial purposes in any tide pool or tidal area, including tide flats or other areas between the high tidemark and 1,000 feet beyond the low tidemark, without a revocable permit issued by the department. The taking of mollusks, crustaceans, or other invertebrates pursuant to this section shall be under regulations adopted by the commission.

SEC. 18. Article 18 (commencing with Section 8590) is added to Chapter 2 of Part 3 of Division 6 of the Fish and Game Code, to read:

Article 18. Prawns and Shrimp

8590. For the purposes of this article, "prawns" or "shrimp", or both, include all of the following species:

(a) Spot prawn (Pandalus platyceros).

(b) Ridgeback prawn (Sicyonia ingentis).

(c) Coonstrip prawn (Pandalus danae).

(d) Pacific ocean shrimp (Pandalus jordani).

(e) Bay shrimp (Crangon franciscorum).

(f) Red rock shrimp (Lysmata californica).

8591. Prawns or shrimp may be taken for commercial purposes under the regulations of the commission.

8592. Prawns or shrimp may be taken with prawn or shrimp traps at any time.

8593. Except as provided in this article, prawns or shrimp may be taken in any waters of the state.

8594. From Point Conception south to the southerly boundary of Ventura County, prawns or shrimp may be taken with prawn or shrimp traps only in waters 50 fathoms or greater in depth.

8595. (a) Prawns or shrimp may be taken for commercial purposes with a trawl net, subject to Article 10 (commencing with Section 8830) of Chapter 3, or in either a prawn trap or a shrimp trap, subject to Article 1 (commencing with Section 9000) of Chapter 4.

(b) No other species shall be taken in a prawn trap or a shrimp trap. Any other species taken incidentally with prawns or shrimp in a trawl net while the trawl net is being used to take prawns or shrimp, or taken incidentally with a prawn trap or a shrimp trap shall be immediately released.

SEC. 19. Article 1 (commencing with Section 9000) of Chapter 4 of Part 3 of Division 6 of the Fish and Game Code is repealed.

SEC. 20. Article 1 (commencing with Section 9000) is added to Chapter 4 of Part 3 of Division 6 of the Fish and Game Code, to read:

Article 1. Traps

9000. (a) Except as expressly authorized in this article, no person shall use a trap to take any fin fish, mollusk, or crustacean in the waters of this state for commercial purposes.

(b) Traps, which are authorized to be used under this article, may be used to take fin fish in any ocean waters. Any area or areas closed to the use of traps by the department shall be included as part of, or appended to, any permit issued pursuant to Section 8254 or 9001.

(c) Freshwater baitfish traps may be used as provided in Section 8463, and that use is not subject to this article.

9001. (a) The department shall issue a revocable, nontransferable general trap permit authorizing the use of traps to take fin fish, mollusks, or crustaceans for commercial purposes from the ocean waters of this state.

(b) Any person who operates or assists in operating any trap to take fin fish, mollusks, or crustaceans, other than lobster or dungeness crabs, as defined in Section 8275, or who possesses or transports fin fish, mollusks, or crustaceans on any boat, barge, or vessel when any trap is aboard, shall have in his or her possession a valid general trap permit issued to him or her pursuant to this section while engaged in any such activity.

(c) The fee for the general trap permit shall be established by the director in an amount not to exceed the cost of administration of this article.

(d) The application for a general trap permit under this section

shall contain a statement, signed by the applicant, that he or she has read, understands, and agrees to be bound by all the terms of the general trap permit.

(e) This section does not apply to the taking of lobster under Section 9010 or to the taking of dungeness crab under Section 9011.

9002. (a) Except as provided in subdivision (b), it is unlawful to willfully disturb, move, or damage any trap belonging to another person.

(b) A person, who has been issued a general trap permit under Section 9001 and has it in his or her possession, may pull or raise a trap marked with a buoy, if the buoy is marked with a buoy identification number pursuant to subdivision (b) of Section 9006. A person pulling or raising a trap marked with a bouy identification number other than his or her own buoy identification number, shall have written permission in his or her possession from the other person who holds the buoy identification number that is marked on the buoy.

(c) This section does not apply to employees of the department while engaged in the performance of official duties.

9003. Every trap shall have at least one destruct device which meets specifications approved by the department.

9004. Every trap shall be raised, cleaned, serviced, and emptied at intervals, not to exceed 96 hours, weather conditions at sea permitting, and no trap shall be abandoned in the waters of this state.

9005. Every trap or string of traps, shall be marked with a buoy.

9006. Any buoy used to mark a trap shall be clearly and distinctively marked with a buoy identification number, as follows:

(a) The buoy identification number for a lobster trap used to take lobster under Section 9010 is the lobster permit number issued pursuant to Section 8254.

(b) The buoy identification number for a trap, which is used under a general trap permit issued pursuant to Section 9001 or a crab trap used to take dungeness crab under Section 9011, is the vessel identification number issued pursuant to Section 7880 if the trap is set or serviced from a vessel registered to the operator of the trap. Otherwise, the buoy identification number is the general trap permit number. If the operator of the trap has neither a vessel identification number nor a general trap permit number, the buoy identification number is the commercial license number issued pursuant to Section 7850.

9007. Any trap used without a buoy, or with a buoy which is not marked pursuant to Section 9006, is a public nuisance and shall be removed from the waters of this state by any person authorized to enforce this code.

9008. Any trap used in violation of this code, or any regulations adopted pursuant thereto, is a public nuisance and, except as provided in Section 9007, shall be seized pursuant to Article 3 (commencing with Section 8630) of Chapter 3.

9010. (a) Subject to Article 5 (commencing with Section 8250) of

Chapter 2, spiny lobster may be taken with lobster traps under a lobster permit issued pursuant to Section 8254.

(b) Notwithstanding Sections 8660 and 8665, lobster traps may be used in areas of the state not otherwise closed to the taking of lobsters up to, but not closer than, 75 feet of any privately owned pier, wharf, jetty, or breakwater.

(c) A wire lobster trap shall be built of rectangular wire mesh with inside mesh measurement not less than 1⅞ inches by 3⅞ inches, the 3⅞-inch measurement to be parallel to the floor of the trap. A wire lobster trap shall be fitted with at least one rigid rectangular escape gap with inside measurements not less than 2⅜ inches by 11½ inches. The escape gap shall be located parallel to, and within two inches of the floor on any outside wall of, the rearmost chamber of the lobster trap and shall be clearly accessible to the lobsters.

(d) A lobster trap constructed of lath or other material shall have an opening to allow a means of escape along the full length of one side of the rearmost chamber. The escape opening shall be of a spacing of not less than 2⅜ inches, and the spacing shall be located parallel to, and within two inches of, the floor of the lobster trap.

9011. (a) Subject to Article 6 (commencing with Section 8275) of Chapter 2, dungeness crab, as defined in Section 8275, may be taken with crab traps.

(b) Subdivision (c) does not apply to crab traps used under a permit issued pursuant to Section 9001 in Districts 19 or 118.5 to take rock crab, as defined in Section 8275. No person shall possess any lobster aboard a vessel while the vessel is being used under this subdivision to take rock crab, as defined in Section 8275.

(c) A crab trap may have any number of openings of any size; however, except as provided in subdivision (b) or (d), every crab trap shall have at least two rigid circular openings of not less than 4¼ inches, inside diameter, on the top or side of the trap. If both of the openings are located on the side of the trap, at least one of the openings shall be located so that at least one-half of the opening is in the upper half of the trap.

(d) Subdivision (c) does not apply to crab traps used south of Point Conception.

9015. (a) Subject to Article 18 (commencing with Section 8590) of Chapter 2, prawns or shrimp, as defined in Section 8590, may be taken with prawn traps or shrimp traps under a general trap permit issued pursuant to Section 9001.

(b) A prawn trap or a shrimp trap shall be six feet or less in its greatest dimension. Every opening from the exterior to the interior of a prawn trap or a shrimp trap shall be five inches or less in any dimension.

9020. (a) Subject to Section 8400, California killifish (Fundulus parvipinnis) or mudsuckers (Gillichthys mirabilis) may be taken with one or more killifish traps under a general trap permit issued pursuant to Section 9001.

(b) A killifish trap shall not exceed 12 inches in width, 12 inches

in height, and 36 inches in greatest length with entrance at small ends of funnels or fykes not to exceed 3 inches in circumference.

9021. (a) Subject to Section 8402, shiner perch (Cymatogaster aggregata), staghorn sculpin (Leptocottus armatus), or mudsuckers (Gillichthys mirabilis) may be taken with one or more perch traps under a general trap permit issued pursuant to Section 9001.

(b) A perch trap shall not exceed 24 inches in length, 12 inches in width, and 12 inches in height, with one opening not to exceed 2 inches in diameter.

9022. All marine species of fin fish subject to Section 8403 may be taken with one or more fin fish traps as prescribed by the commission under a general trap permit issued pursuant to Section 9001.

SEC. 21. Section 9025 of the Fish and Game Code is amended to read:

9025. Troll lines or handlines having not more than two hooks (plugs excepted) may be used in any district, and troll lines with more than two hooks may be used in Districts 6, 7, 10, 15, 16, 17, 18, 19, and 19A, and that portion of District 11 west of the Golden Gate Bridge.

SEC. 22. Section 9002 of the Fish and Game Code, as added by Section 20 of this act, is amended to read:

9002. (a) Except as provided in subdivision (b), it is unlawful to willfully or recklessly disturb, move, or damage any trap which belongs to another person and which is marked with a buoy identification number pursuant to Section 9006.

(b) A person, who has been issued a general trap permit under Section 9001 and has it in his or her possession, may pull or raise a trap marked with a buoy, if the buoy is marked with a buoy identification number pursuant to subdivision (b) of Section 9006. A person pulling or raising a trap marked with a buoy identification number other than his or her own buoy identification number, shall have written permission in his or her possession from the other person who holds the buoy identification number that is marked on the buoy.

(c) This section does not apply to employees of the department while engaged in the performance of official duties.

SEC. 23. Section 9003 of the Fish and Game Code, as added by Section 20 of this act, is amended to read:

9003. Every trap shall have at least one destruction device which meets specifications approved by the department. In order to minimize the adverse effects on living marine resources, the specifications for destruction devices shall provide for a device that destructs rapidly enough to facilitate escape of a substantial proportion of all species confined in the trap from any trap that cannot be raised.

SEC. 24. Section 9010 of the Fish and Game Code, as added by Section 20 of this act, is amended to read:

9010. (a) Subject to Article 5 (commencing with Section 8250) of Chapter 2, spiny lobster may be taken with lobster traps under a

lobster permit issued pursuant to Section 8254.

(b) Notwithstanding Sections 8660 and 8665, lobster traps may be used in any area of the state not otherwise closed to the taking of lobsters up to, but not closer than, 75 feet of any private pier, wharf, jetty, breakwater, or dock.

(c) A wire lobster trap shall be built of rectangular wire mesh with inside mesh measurement not less than 1⅞ inches by 3⅞ inches, the 3⅞-inch measurement to be parallel to the floor of the trap. A wire lobster trap shall be fitted with at least one rigid rectangular escape gap with inside measurements not less than 2⅜ inches by 11½ inches. The escape gap shall be located parallel to, and within two inches of the floor on any outside wall of, the rearmost chamber of the lobster trap and shall be clearly accessible to the lobsters.

(d) A lobster trap constructed of lath or other material shall have an opening to allow a means of escape along the full length of one side of the rearmost chamber. The escape opening shall be of a spacing of not less than 2⅜ inches, and the spacing shall be located parallel to, and within two inches of, the floor of the lobster trap.

SEC. 25. Sections 22, 23, and 24 of this act shall become operative only if SB 1676 is chaptered and takes effect January 1, 1985, and this bill is chaptered after SB 1676, in which case Sections 9002, 9003, and 9010, as added by Section 20 of this act shall not become operative.

SEC. 26. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1272

An act to add Section 1520.2 to the Health and Safety Code, relating to community care facilities.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

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

SECTION 1. Section 1520.2 is added to the Health and Safety Code, to read:

1520.2. (a) Every licensed community care facility, at the request of a majority of its residents, shall assist its residents in establishing and maintaining a resident-oriented facility council. The council shall be composed of residents of the facility and may include family members of residents of the facility. The council may, among

other things, make recommendations to facility administrators to improve the quality of daily living in the facility and may negotiate to protect residents' rights with facility administrators.

(b) A violation of subdivision (a) shall not be subject to the provisions of Section 1540 but shall be subject to the provisions of Section 1534 and any other provisions of this chapter.

(c) This section shall not apply to a community care facility as defined in paragraphs (3), (5), and (6) of subdivision (a) of Section 1502, or to a community care facility licensed to provide care for six or fewer individuals.

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

SEC. 3. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1273

An act to amend Section 25117.5 of the Health and Safety Code, relating to hazardous waste control.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

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

SECTION 1. Section 25117.5 of the Health and Safety Code is amended to read:

25117.5. (a) "Infectious waste" means all of the following:

(1) Laboratory wastes, including cultures of etiologic agents, which pose a substantial threat to health due to their volume and virulence.

(2) Pathologic specimens, including human or animal tissues, blood elements, excreta, and secretions which contain etiologic agents, and attendant disposable fomites.

(3) Surgical specimens, including human or animal parts and tissues removed surgically or at autopsy, which, in the opinion of the attending physician or veterinarian, contain etiologic agents and attendant disposable fomites.

(4) Equipment, instruments, utensils, and other disposable materials which are likely to transmit etiologic agents from the

rooms of humans, or the enclosures of animals, which have been isolated because of suspected or diagnosed communicable disease.

(5) Human dialysis waste materials including arterial lines and dialyzate membranes.

(6) Carcasses of animals infected with etiologic agents which may present a substantial hazard to public health if improperly managed.

(7) Any other material which, in the determination of the facility infection control staff, presents a significant danger of infection because it is contaminated with, or may reasonably be expected to be contaminated with, etiologic agents.

(b) As used in this section, "etiologic agent" means a type of microorganism, helminth, or virus which causes, or significantly contributes to the cause of, increased morbidity or mortality of human beings.

CHAPTER 1274

An act to amend Section 25252 of the Health and Safety Code, relating to health.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

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

SECTION 1. Section 25252 of the Health and Safety Code is amended to read:

25252. (a) Notwithstanding Section 5328 of the Welfare and Institutions Code, and except as provided in Sections 25253 and 25254, any adult patient of a health care provider, any minor patient authorized by law to consent to medical treatment, and any patient representative shall be entitled to inspect patient records upon presenting to the health care provider a written request for those records and upon payment of reasonable clerical costs incurred in locating and making the records available. However, a patient who is a minor shall be entitled to inspect patient records pertaining only to health care of a type for which the minor is lawfully authorized to consent. A health care provider shall permit this inspection during business hours within five working days after receipt of such a written request. The inspection shall be conducted by the patient or patient's representative requesting the inspection, who may be accompanied by one other person of his or her choosing.

(b) Additionally, any patient or patient's representative shall be entitled to copies of all or any portion of the patient records which he or she has a right to inspect, upon presenting a written request to the health care provider specifying the records to be copied, together with a fee to defray the cost of copying, which shall not exceed twenty-five cents ($0.25) per page or fifty cents ($0.50) per

page for records that are copied from microfilm and any additional reasonable clerical costs incurred in making the records available. The health care provider shall ensure that the copies are transmitted within 15 days after receiving the written request.

(c) Copies of X-rays or tracings derived from electrocardiography, electroencephalography, or electromyography need not be provided to the patient or patient's representative under this section, if the original X-rays or tracings are transmitted to another health care provider upon written request of the patient or patient's representative and within 15 days after receipt of such a request. Any such request shall specify the name and address of the health care provider to whom the records are to be delivered. All reasonable costs, not exceeding actual costs, incurred by a health care provider in providing copies pursuant to this subdivision may be charged to the patient or representative requesting the copies.

(d) Nothing in this section shall be construed to preclude a health care provider from requiring reasonable verification of identity prior to permitting inspection or copying of patient records, provided this requirement is not used oppressively or discriminatorily to frustrate or delay compliance with this section. Nothing in this chapter shall be deemed to supersede any rights which a patient or representative might otherwise have or exercise under Section 1158 of the Evidence Code or any other provision of law. Nothing in this chapter shall require a health care provider to retain records longer than required by applicable statutes or administrative regulations.

(e) Nothing in this chapter shall be construed to render a health care provider liable for the quality of his or her records or the copies provided in excess of existing law and regulations adopted pursuant thereto with respect to the quality of medical records. A health care provider shall not be liable to the patient or any other person for any consequences which result from disclosure of patient records as required by this chapter.

(f) Any health care provider described in paragraphs (4) to (8), inclusive of subdivision (a) of Section 25251 who willfully violates this chapter is guilty of unprofessional conduct. Any health care provider described in paragraphs (1) to (3), inclusive of subdivision (a) of Section 25251 that willfully violates this chapter is guilty of an infraction punishable by a fine of not more than one hundred dollars ($100). The state agency, board or commission which issued the health care provider's professional or institutional license shall consider a violation as grounds for disciplinary action with respect to the licensure, including suspension or revocation of the license or certificate.

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

or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1275

An act to amend Sections 930, 940, 976.6, 977, 978.1, 979, 980, 980.5, 981, 982, and 1027.5 of, to repeal and add Section 977.5 of, and to repeal Section 978 of, the Unemployment Insurance Code, relating to unemployment insurance, and declaring the urgency thereof, to take effect immediately, tax levy.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

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

SECTION 1. Section 930 of the Unemployment Insurance Code is amended to read:

930. "Wages" does not include remuneration in excess of seven thousand dollars ($7,000) paid to an individual by an employer during any calendar year, with respect to employment.

SEC. 2. Section 940 of the Unemployment Insurance Code is amended to read:

940. For the purposes of this section, of Sections 977 and 977.5 to the extent specified by those sections, and of Sections 1026, 1088, 1280, 1281, 1282, 2652, 2654, 2655, and 2657, "wages" means taxable wages as well as wages which would be taxable except for the limitations on taxable wages provided under Sections 930 and 985.

SEC. 3. Section 976.6 of the Unemployment Insurance Code is amended to read:

976.6. In addition to other contributions required by this division, every employer, except an employer defined by Sections 676, 684, or 685, shall pay into the Employment Training Fund contributions at the rate of 0.1 percent of wages as provided by Section 930. The contributions shall be collected in the same manner and at the same time as any contributions required under Sections 977 and 977.5.

This section shall remain in effect only until January 1, 1987, and on that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends that date.

SEC. 4. Section 977 of the Unemployment Insurance Code is amended to read:

977. (a) If, as of the computation date, the employer's net balance of reserve equals or exceeds that percentage of his or her average base payroll which appears on any line in column 1 of the following table, but is less than that percentage of his or her average base payroll which appears on the same line in column 2 of that table, his or her contribution rate shall be the figure appearing on that same line in the appropriate schedule, as defined in subdivision (b),

which shall be a percentage of the wages specified in Section 930.

	Reserve Ratio		Contribution Rate Schedules					
	Column	Column						
Line	1	2	A	B	C	D	E	F
01	less than -20		5.4	5.4	5.4	5.4	5.4	5.4
02	-20 to -18		5.3	5.4	5.4	5.4	5.4	5.4
03	-18 to -16		5.2	5.4	5.4	5.4	5.4	5.4
04	-16 to -14		5.1	5.3	5.4	5.4	5.4	5.4
05	-14 to -12		5.0	5.3	5.4	5.4	5.4	5.4
06	-12 to -11		4.9	5.2	5.4	5.4	5.4	5.4
07	-11 to -10		4.8	5.1	5.3	5.4	5.4	5.4
08	-10 to -09		4.7	5.1	5.3	5.4	5.4	5.4
09	-09 to -08		4.6	4.9	5.2	5.4	5.4	5.4
10	-08 to -07		4.5	4.8	5.1	5.3	5.4	5.4
11	-07 to -06		4.4	4.7	5.0	5.3	5.4	5.4
12	-06 to -05		4.3	4.6	4.9	5.2	5.4	5.4
13	-05 to -04		4.2	4.5	4.8	5.1	5.3	5.4
14	-04 to -03		4.1	4.4	4.7	5.0	5.3	5.4
15	-03 to -02		4.0	4.3	4.6	4.9	5.2	5.4
16	-02 to -01		3.9	4.2	4.5	4.8	5.1	5.4
17	-01 to 00		3.8	4.1	4.4	4.7	5.0	5.4
18	00 to 01		3.6	3.9	4.2	4.5	4.8	5.1
19	01 to 02		3.4	3.7	4.0	4.3	4.6	4.9
20	02 to 03		3.2	3.5	3.8	4.1	4.4	4.7
21	03 to 04		3.0	3.3	3.6	3.9	4.2	4.5
22	04 to 05		2.8	3.1	3.4	3.7	4.0	4.3
23	05 to 06		2.6	2.9	3.2	3.5	3.8	4.1
24	06 to 07		2.4	2.7	3.0	3.3	3.6	3.9
25	07 to 08		2.2	2.5	2.8	3.1	3.4	3.7
26	08 to 09		2.0	2.3	2.6	2.9	3.2	3.5
27	09 to 10		1.8	2.1	2.4	2.7	3.0	3.3
28	10 to 11		1.6	1.9	2.2	2.5	2.8	3.1
29	11 to 12		1.4	1.7	2.0	2.3	2.6	2.9
30	12 to 13		1.2	1.5	1.8	2.1	2.4	2.7
31	13 to 14		1.0	1.3	1.6	1.9	2.2	2.5
32	14 to 15		0.9	1.1	1.4	1.7	2.0	2.3
33	15 to 16		0.8	1.0	1.2	1.5	1.8	2.1
34	16 to 17		0.7	0.9	1.1	1.3	1.6	1.9
35	17 to 18		0.6	0.8	1.0	1.2	1.4	1.7
36	18 to 19		0.5	0.7	0.9	1.1	1.3	1.5
37	19 to 20		0.4	0.6	0.8	1.0	1.2	1.4
38	20 or more		0.3	0.5	0.7	0.9	1.1	1.3

(b) (1) Whenever the balance in the Unemployment Fund on December 31 of any calendar year is greater than 1.8 percent of the wages (as defined by Section 940) in employment subject to this part paid during the 12-month period ending upon the computation date, employers shall pay into the Unemployment Fund contributions for

the succeeding calendar year upon all wages with respect to employment at the rates specified in Schedule A.

(2) Whenever the balance in the Unemployment Fund on December 31 of any calendar year is equal to or less than 1.8 percent and greater than 1.6 percent of the wages (as defined by Section 940) in employment subject to this part paid during the 12-month period ending upon the computation date, employers shall pay into the Unemployment Fund contributions for the succeeding calendar year upon all wages with respect to employment at the rates specified in Schedule B.

(3) Whenever the balance in the Unemployment Fund on December 31 of any calendar year is equal to or less than 1.6 percent and greater than 1.4 percent of the wages (as defined by Section 940) in employment subject to this part paid during the 12-month period ending upon the computation date, employers shall pay into the Unemployment Fund contributions for the succeeding calendar year upon all wages with respect to employment at the rates specified in Schedule C.

(4) Whenever the balance in the Unemployment Fund on December 31 of any calendar year is equal to or less than 1.4 percent and greater than 1.2 percent of the wages (as defined by Section 940) in employment subject to this part paid during the 12-month period ending upon the computation date, employers shall pay into the Unemployment Fund contributions for the succeeding calendar year upon all wages with respect to employment at the rates specified in Schedule D.

(5) Whenever the balance in the Unemployment Fund on December 31 of any calendar year is equal to or less than 1.2 percent and greater than 1.0 percent of the wages (as defined by Section 940) in employment subject to this part paid during the 12-month period ending upon the computation date, employers shall pay into the Unemployment Fund contributions for the succeeding calendar year upon all wages with respect to employment at the rates specified in Schedule E.

(6) Whenever the balance in the Unemployment Fund on December 31 of any calendar year is equal to or less than 1.0 percent and greater than 0.8 percent of the wages (as defined by Section 940) in employment subject to this part paid during the 12-month period ending upon the computation date, employers shall pay into the Unemployment Fund contributions for the succeeding calendar year upon all wages with respect to employment at the rates specified in Schedule F.

SEC. 5. Section 977.5 of the Unemployment Insurance Code is repealed.

SEC. 6. Section 977.5 is added to the Unemployment Insurance Code, to read:

977.5. Whenever the balance in the Unemployment Fund on December 31 of any calendar year is less than eight-tenths of 1 percent of the wages (as defined by Section 940) in employment, subject to

this part, paid during the 12-month period ending on the computation date, employers shall pay into the Unemployment Fund contributions for the succeeding calendar year upon all wages with respect to employment at an emergency solvency surcharge rate.

The emergency solvency surcharge rate shall be 1.15 times the rate the employer would have paid in Schedule F of subdivision (a) of Section 977, rounded to the nearest one-tenth of 1 percent.

SEC. 7. Section 978 of the Unemployment Insurance Code is repealed.

SEC. 8. Section 978.1 of the Unemployment Insurance Code is amended to read:

978.1. In lieu of contributions required by Section 977 or 978, an employer, except an employer as defined by Section 676, 684, or 685, whose average base payroll has increased on a computation date 25 percent or more above the employer's average base payroll on the preceding computation date, shall pay into the Unemployment Fund contributions with respect to wages paid for employment at the next lower rate than the rate applicable to other employers for the calendar year but not less than the lowest rate on the applicable schedule in subdivision (a) of Section 977. This section does not apply to any employer who has a negative reserve account balance on the computation date.

SEC. 9. Section 979 of the Unemployment Insurance Code is amended to read:

979. On or before January 10 of each calendar year, the director shall prepare a statement based on records of the department declaring which of the employer tax schedules contained in Section 977 shall be in effect for that calendar year and whether the emergency solvency surcharge pursuant to Section 977.5 shall be added. The statement shall be a public record and shall be final and binding for that calendar year. The statement shall include the official tabulation of wages in subject employment made by the department for the purpose of Sections 977 and 977.5, a summary of the data upon which that tabulation was based, and the sources from which those data were obtained, and shall further include a summary of the data upon which the computation of the balance in the Unemployment Fund was based, and their source. The director's action under Sections 977, 977.5, and this section shall not constitute an authorized regulation.

SEC. 10. Section 980 of the Unemployment Insurance Code is amended to read:

980. (a) In determining the balance in the Unemployment Fund for the purpose of Sections 977 and 977.5, there shall be excluded all of the following:

(1) Any amount credited to this state's account in the Unemployment Trust Fund pursuant to Section 903 of the federal Social Security Act, as amended, which has been appropriated for expenses of administration other than for capital assets, whether or not that amount has been withdrawn from that fund.

(2) Any unexpended advance from the federal unemployment

account in the Unemployment Trust Fund received in accordance with Section 323 of this division and Title XII of the federal Social Security Act, as amended.

(3) Any amount paid in advance into the Unemployment Fund by an employer under any type of coverage pursuant to which reimbursement of benefits is permitted or required in lieu of the contributions required of employers.

(4) Any amount paid in advance into the Unemployment Fund by the federal government under any federal law that requires or permits this state to pay benefits from the Unemployment Fund and provides for advances by the federal government for reimbursement of all or part of those benefits.

(b) In determining the balance in the Unemployment Fund for the purpose of Sections 977 and 977.5, there shall also be excluded any estimated or other contributions not legally due and payable with respect to the final calendar quarter of the calendar year, except any payment of contributions made under Section 1137 and except any payment of contributions by employers terminating business during any calendar quarter.

SEC. 11. Section 980.5 of the Unemployment Insurance Code is amended to read:

980.5. In determining the balance in the Unemployment Fund for the purpose of Sections 977 and 977.5, there shall be included both of the following:

(a) The unreimbursed balance of all benefits paid from the Unemployment Fund to claimants when those benefits are based upon wages in employment under any type of coverage pursuant to which reimbursement of benefits is permitted or required in lieu of the contributions required of employers, whether or not the director has certified the benefits to the employer as due or payable.

(b) The unreimbursed balance of all benefits paid from the Unemployment Fund to claimants when, and to the extent that, the benefits are subject to reimbursement by the federal government under any federal law that requires or permits this state to pay benefits from the Unemployment Fund and provides for reimbursement by the federal government of all or part of those benefits.

SEC. 12. Section 981 of the Unemployment Insurance Code is amended to read:

981. In determining wages in employment, for the purpose of Sections 977 and 977.5, there shall be excluded all wages paid in employment under any type of coverage pursuant to which reimbursement of benefits is permitted or required in lieu of the contributions required of employers.

SEC. 13. Section 982 of the Unemployment Insurance Code is amended to read:

982. (a) Except as provided in subdivision (b), no employer shall be eligible for a contribution rate of more or less than 3.4 percent for any rating period unless his or her reserve account has been subject to benefit charges during the period of 12 complete consecutive

calendar quarters ending on the computation date for that rating period and he or she is qualified under Sections 977 and 977.5.

(b) No new employer shall be eligible for a contribution rate of more or less than 3.4 percent unless his or her reserve account has been subject to benefit charges during the period of 12 complete consecutive calendar months ending on the computation date and the new employer is qualified under Sections 977 and 977.5.

(c) For the purposes of this section "new employer" means any of the following:

(1) An employer who first qualifies as an employer after the 1969 calendar year, and whose account is continuously subject to benefit charges from the date of first chargeability, except that a successor employer under Section 1051 is not a new employer if the successor applies for or obtains the transfer of the reserve account or part thereof of a predecessor who is not a new employer.

(2) An employer whose entire reserve account has been transferred to a successor under Article 5 (commencing with Section 1051) of Chapter 4 of this part.

(3) An employer whose reserve account has been canceled pursuant to Section 1029.

(d) Section 905 applies to a new employer, except that for the purposes of this section "average base payroll" means:

(1) The payroll in the calendar year immediately preceding the computation date for a new employer with a payroll only in that calendar year.

(2) The quotient obtained by dividing by two the total amount of taxable wages paid by a new employer during the most recent period of two consecutive calendar years immediately preceding the computation date, for a new employer with a payroll only in each of, or only in the first of, the two consecutive calendar years.

SEC. 14. Section 1027.5 of the Unemployment Insurance Code is amended to read:

1027.5. On the computation date each year, the amount each employer's net balance of reserve is more negative than 21 percent of the employer's base payroll shall be canceled from his or her reserve balance.

This section shall become operative on June 30, 1984.

SEC. 15. Tax rates provided by this act shall apply to contributions due during the 1985 calendar year and thereafter. Notwithstanding Section 977 of the Unemployment Insurance Code, for the 1985 calendar year only, employers shall pay into the Unemployment Fund contributions upon all wages with respect to employment at the rates specified in Schedule D of subdivision (a) of Section 977 of the Unemployment Insurance Code.

SEC. 16. The Director of Employment Development shall prepare a study to report to the Legislature on or before March 1, 1986, and again on or before December 31, 1987, on the adequacy of the unemployment insurance financing structure as contained in this act. The report shall comment on the effect of the financing struc-

ture on the various types of employers, claimants, and the Unemployment Fund, along with recommendations on improvements. The department shall consult with the Senate Committee on Industrial Relations and the Assembly Committee on Finance and Insurance prior to the preparation of each report.

SEC. 17. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 18. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 19. The State Board of Control shall calculate the amount of savings accruing to each county as a result of the operation of this act and shall offset these savings against any costs incurred by that county which would otherwise be reimbursable by the state pursuant to the provisions of Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of the Revenue and Taxation Code.

SEC. 20. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

SEC. 21. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to permit the Employment Development Department to implement the new unemployment insurance tax rate on employers without any disruptions, and in order to comply with the provisions of Section 271 of the federal Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-248), it is necessary that this act take effect immediately.

CHAPTER 1276

An act to add Section 1280.8 to the Insurance Code, and to amend and renumber Section 17268 of, and to repeal and add Section 24415 of, the Revenue and Taxation Code, relating to cooperative corporations, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984]

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

SECTION 1. Section 1280.8 is added to the Insurance Code, to read:

1280.8. Notwithstanding any provision to the contrary, whenever the membership of a cooperative organization, organized pursuant to Part 2 (commencing with Section 12200) of Division 3 of Title 1 of the Corporations Code and consisting solely of physicians and surgeons licensed in this state amounts to 2,000 or more members and the trust fund is at least 40 million dollars ($40,000,000), which is available to the public for malpractice claims, the cooperative is authorized to admit members without a contribution to that trust fund if assessments are charged to each of those members within the first 50 months in an amount equal to the amount of the contribution to the reserve fund that would otherwise be required.

This section shall apply only to contracts and entities described in Section 1280.7.

SEC. 2. Section 17268 of the Revenue and Taxation Code is amended and renumbered to read:

17278. (a) To the extent specified in subdivision (b), there shall be allowed as a deduction to a taxpayer those payments of the taxpayer which are made pursuant to an interindemnity arrangement specified in Section 1280.7 of the Insurance Code and which are paid to a trust of members of a cooperative corporation organized and operated under Part 2 (commencing with Section 12200) of Division 3 of Title 1 of the Corporations Code and the members of which consist solely of physicians and surgeons licensed in this state.

(b) The deduction authorized by subdivision (a) shall be taken with respect to the taxable year in which the payment is made and shall be taken only to the extent that the payment does not exceed the amount which would otherwise be payable to an independent insurance company for similar coverage for medical malpractice insurance in that taxable year. Any portion of the payment in excess of that amount shall be treated as a payment under the interindemnity arrangement for five succeeding taxable years and may be carried forward as a deduction to those five succeeding taxable years until used. The deduction shall be applied first to the earliest years possible.

(c) In the event any payment is refunded by the trust to the taxpayer for any reason, the payment shall be included in the taxpayer's income for the taxable year in which it is received to the extent that the payment or any portion thereof was taken as a deduction in any earlier taxable year.

(d) Any refund of a payment which is made by a trust to a taxpayer shall be reported by the trust to the Franchise Tax Board in the year in which the refund is made. The trust shall furnish the taxpayer with a copy of that report. In the case of any payment to be made to a taxpayer who is not a resident of the State of California

in the year in which the refund is made, the Franchise Tax Board may, by regulation, require the trust to withhold an amount from the refund, determined by the Franchise Tax Board to reasonably represent the amount of tax due when that refund is included with other income of the taxpayer, and to transmit the amount withheld to the Franchise Tax Board at a time as it may designate.

(e) For purposes of this section:

(1) "Payment" means a contribution to or an assessment by an interindemnity arrangement described in Section 1280.7 of the Insurance Code.

(2) "Taxpayer" means a physician or surgeon licensed in this state who is a participating member in an interindemnity arrangement described in Section 1280.7 of the Insurance Code.

(3) "Trust" means a trust described in subdivision (a).

(f) Upon request, the trust shall submit to the Franchise Tax Board the names and membership dates of all participating doctors.

(g) The Franchise Tax Board shall prescribe those regulations as may be necessary to carry out the purposes of this section.

SEC. 3. Section 24415 of the Revenue and Taxation Code is repealed.

SEC. 4. Section 24415 is added to the Revenue and Taxation Code, to read:

24415. (a) To the extent specified in subdivision (b), there shall be allowed as a deduction to a taxpayer those payments of the taxpayer which are made pursuant to an interindemnity arrangement specified in Section 1280.7 of the Insurance Code and which are paid to a trust of members of a cooperative corporation organized and operated under Part 2 (commencing with Section 12200) of Division 3 of Title 1 of the Corporations Code and the members of which consist solely of physicians and surgeons licensed in this state.

(b) The deduction authorized by subdivision (a) shall be taken with respect to the income year in which the payment is made and shall be taken only to the extent that the payment does not exceed the amount which would otherwise be payable to an independent insurance company for similar coverage for medical malpractice insurance in that income year. Any portion of the payment in excess of that amount shall be treated as a payment under the interindemnity arrangement for five succeeding income years and may be carried forward as a deduction to those five succeeding income years until used. The deduction shall be applied first to the earliest years possible.

(c) In the event any payment is refunded by the trust to the taxpayer for any reason, the payment shall be included in the taxpayer's income for the income year in which it is received to the extent that the payment or any portion thereof was taken as a deduction in any earlier income year.

(d) Any refund of a payment which is made by a trust to a taxpayer shall be reported by the trust to the Franchise Tax Board

in the year in which the refund is made. The trust shall furnish the taxpayer with a copy of that report. In the case of any payment to be made to a taxpayer who is not a resident of the State of California in the year in which the refund is made, the Franchise Tax Board may, by regulation, require the trust to withhold an amount from the refund, determined by the Franchise Tax Board to reasonably represent the amount of tax due when that refund is included with other income of the taxpayer, and to transmit the amount withheld to the Franchise Tax Board at a time as it may designate.

(e) For purposes of this section:

(1) "Payment" means a contribution to or an assessment by an interindemnity arrangement described in Section 1280.7 of the Insurance Code.

(2) "Taxpayer" means a corporation whose shares are held by a physician and surgeon, or physicians and surgeons, licensed in this state which is a participating member in an interindemnity arrangement described in Section 1280.7 of the Insurance Code.

(3) "Trust" means a trust described in subdivision (a).

(f) Upon request, the trust shall submit to the Franchise Tax Board the names and membership dates of all participating corporations.

(g) The Franchise Tax Board shall prescribe those regulations as may be necessary to carry out the purposes of this section.

SEC. 5. The provisions of Sections 2 and 4 of this act shall be operative only in those taxable and income years in which similar treatment is operative in federal law.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to maximize the participation of physicians and surgeons in this state with respect to membership in cooperative associations providing malpractice coverage, it is necessary for this act to take effect immediately.

CHAPTER 1277

An act to add Section 14505 to the Food and Agricultural Code, relating to fertilizing materials.

[Approved by Governor September 18, 1984 Filed with Secretary of State September 19, 1984.]

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

SECTION 1. Section 14505 is added to the Food and Agricultural Code, to read:

14505. Agricultural products derived from municipal sewage

sludge shall be regulated as fertilizer material under this chapter, and when used in general commerce, these products are not subject to regulation as a hazardous substance pursuant to Section 28744 of the Health and Safety Code and are not subject to regulation as a waste under Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.

CHAPTER 1278

An act to add Sections 43843 and 43844 to the Health and Safety Code, relating to methanol fuel.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

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

SECTION 1. The Legislature hereby declares methanol fuel is now accepted as the most attractive energy alternative to gasoline and diesel fuel for motor vehicle usage.

Substantial improvements in urban air pollution are also predicted when methanol is substituted for the majority of the mobile source organic emissions in the state's urban basins. These benefits can be realized in the coming decades only if significant methanol distribution and use begins in the near future.

SEC. 2. Section 43843 is added to the Health and Safety Code, to read:

43843. (a) The state board, in consultation with the State Energy Resources Conservation and Development Commission, shall establish and conduct, until January 1, 1988, an experimental program in which fleet vehicles may utilize gasoline into which methanol has been blended.

(b) In order to participate in the methanol-gasoline experimental vehicle fleet program, all of the following information shall be submitted to the state board for each vehicle proposed for participation in the program:

(1) The make, model, vehicle identification number, and license number of each vehicle.

(2) A description of the fuel to be used in the vehicle.

(3) Evidence that the vehicle's emissions using the methanol-gasoline blend will be no higher than the vehicle's emissions using gasoline which complies with the volatility standard established pursuant to Section 43830. Evidence may be based on emission tests or a combination of emission tests and engineering evaluation.

(4) A description of any modifications to the vehicle necessary to comply with paragraph (3).

(5) A valid certificate of compliance issued pursuant to Section

4000.1, 4000.2, or 4000.3 of the Vehicle Code.

(c) Within 60 days of receipt of a request to participate in the program, the state board, in consultation with the State Energy Resources Conservation and Development Commission, shall approve or deny the request. Approval shall be granted if adequate evidence is provided that use of the fuel will not cause or contribute to an increase in vehicle emissions when using the methanol-gasoline blend.

(d) The state board may periodically test vehicles enrolled in the program for compliance. Failure to meet state emission standards shall not result in imposition of any fine or penalty if there are no violations of Section 27156 of the Vehicle Code, and the vehicle is restored to conform to applicable emission standards at the end of the experimental program.

(e) All of the following records shall be maintained on each vehicle and shall be made available to the state board upon request:

(1) Fuel economy.

(2) Maintenance and repair.

(3) Driveability.

(f) The state board may exempt the vehicles in any fleet participating in the program from the requirements of subdivision (b) until July 1, 1985. The exemption shall be granted if the applicant demonstrates that the evidence required pursuant to paragraph (3) of subdivision (b) is not available, that there is likelihood that it will become available within the exemption period, and that the facility at which the fleet vehicle is normally refueled does not have provisions for the distribution of more than one type of fuel.

SEC. 3. Section 43844 is added to the Health and Safety Code, to read:

43844. Fuels used in vehicles participating in the methanol-gasoline experimental vehicle fleet program shall not be required to comply with the standards established pursuant to Section 43830 or the requirements of subdivision (b) of Section 13440 of the Business and Professions Code, if all of the following conditions are met:

(a) The fuel is dispensed only from a pump operated by a fleet operator whose request to participate has been granted pursuant to subdivision (c) of Section 43843.

(b) The fuel is used only in vehicles participating in the methanol-gasoline experimental vehicle fleet program.

(c) The gasoline used in the blend meets the standards established pursuant to Section 43830.

CHAPTER 1279

An act to amend Section 21024.1 of the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 18, 1984 Filed with Secretary of State September 19, 1984.]

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

SECTION 1. Section 21024.1 of the Government Code is amended to read:

21024.1. If the board requests a person to submit to a medical examination, he shall be entitled to reimbursement for expenses of transportation, and meals and lodging incident to such examination if he is required to travel more than 50 miles one way. Standard per diem rates in effect for state employees as authorized by regulation of the State Board of Control shall be used for such reimbursement; provided, that higher costs of lodging may be paid if supported by receipt and determined necessary by the board. "Expenses of transportation" with respect to the use of private transportation includes mileage fees from the person's home to the place of examination and back to a maximum of 300 miles round trip or within the state at the appropriate current rate per mile authorized to state employees for use of private vehicles by regulation of the State Board of Control plus bridge tolls. Such per diem and mileage may be paid to the person by the system at the time he is given notification of the time and place of examination.

CHAPTER 1280

An act to amend Sections 14023, 14023.5, and 14025 of, and to repeal Sections 14027, 14028, 14028.1, 14028.2, 14028.3, and Chapter 2 (commencing with Section 14150) of Part 5 of Division 3 of Title 1 of, the Corporations Code, and to amend Section 15325 of, and to add Sections 15335, 15335.07, 15335.09, 15335.11, 15335.13, 15335.15, 15335.17, and 15335.19 of, the Government Code, relating to small businesses.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

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

SECTION 1. Section 14023 of the Corporations Code is amended to read:

14023. The executive director of the Office of Small Business, as provided for in Section 15335.07 of the Government Code, shall do

all of the following:

(a) Administer this part.

(b) In accordance with program resources, stimulate the formation of urban and rural development corporations and the use of branch offices for the purpose of making this program accessible to all disadvantaged areas of the state.

(c) After consideration by the board, expeditiously approve or disapprove the articles of incorporation and any subsequent amendments to the articles of incorporation.

(d) Require each small business development corporation to submit a written plan of operation in such form and containing such information as the board may require by statute, regulation, or otherwise. Every plan submitted shall provide for conversion to a UDC or RDC within six months.

(e) Review reports from the State Banking Department and inform regional corporations as to what corrective action is required.

(f) Examine, or cause to be examined, at any reasonable time all books, records, and documents of every kind, and the physical properties of a corporation. The inspection shall include the right to make copies, extracts, and search records.

SEC. 2. Section 14023.5 of the Corporations Code is amended to read:

14023.5. The executive director, following notification to the director, may do all of the following:

(a) Upon approval by the board, contract for services.

(b) Hold public hearings.

(c) Act as liaison between corporations formed under this part, other state and federal agencies, lenders, and the Legislature.

(d) Process and tabulate on a monthly basis all regional reports.

(e) Attend monthly board meetings.

(f) Attend and participate quarterly at corporation meetings.

(g) Assist corporations in applying for local revenue sharing funds and for federal grant applications, and in obtaining program support from the business community.

SEC. 3. Section 14025 of the Corporations Code is amended to read:

14025. If the executive director determines that the corporation is not meeting the criteria, rules, and regulations adopted pursuant to this part, its written proposed plan of operation submitted under subdivision (d) of Section 14023, and the purposes expressed in Section 14002, the executive director may take action to suspend the corporate powers. With the approval of the board and the Department of Finance, the executive director may withdraw state funds allocated to a regional small business development corporation loan guarantee fund which are not encumbered or obligated by outstanding guarantees, and the state funds may be allocated to other regional small business development corporation loan guarantee funds.

If the executive director gives notice of the withdrawal of state

funds, and the corporation does not return these funds within 15 days after the notice, the corporate powers, rights, and privileges of the corporation shall be suspended. Such suspension shall in no way impair the effectiveness of any outstanding loan or guarantee.

The executive director shall transmit the name of the corporation to be suspended to the Secretary of State, and the suspension shall thereupon become effective upon the issuance of a certificate of the Secretary of State which shall be prima facie evidence of suspension.

SEC. 4. Section 14027 of the Corporations Code is repealed.

SEC. 5. Section 14028 of the Corporations Code is repealed.

SEC. 6. Section 14028.1 of the Corporations Code is repealed.

SEC. 7. Section 14028.2 of the Corporations Code is repealed.

SEC. 8. Section 14028.3 of the Corporations Code is repealed.

SEC. 9. Chapter 2 (commencing with Section 14150) of Part 5 of Division 3 of Title 1 of the Corporations Code is repealed.

SEC. 10. Section 15325 of the Government Code is amended to read:

15325. The work of the department shall be divided into the following five offices:

(a) The Office of Economic Planning, Policy, and Research Development.

(b) The Office of Local Economic Development.

(c) The Office of Business and Industrial Development.

(d) The Office of Tourism.

(e) The Office of Small Business.

SEC. 11. Section 15335 is added to the Government Code, to read:

15335. It is the intent of the Legislature in establishing the Office of Small Business for the office to promote the economic development of small businesses by making available capital, management assistance and other resources, including loan services, personnel and business education to small business entrepreneurs for the purpose of promoting the health, safety, and social welfare of the citizens of the state; to eliminate unemployment of the economically disadvantaged of the state; and to stimulate economic development, employment, minority group and disabled persons entrepreneurship. It is the further intent of the Legislature that the office use flexible means to mobilize and commit all available and potential resources in the various regions of the state to fulfill these objectives. It is the further intent of the Legislature that the office operating pursuant to this law, shall to the maximum extent feasible, coordinate with other job and business development efforts throughout the state directed toward implementing the purposes of this part and Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code.

SEC. 12. Section 15335.07 is added to the Government Code, to read:

15335.07. The Governor may appoint, upon the recommendation of the director of the department, the executive director of the office. Such a recommendation shall be selected from a list of three

candidates submitted by the Small Business Development Board, as described in Sections 14020, 14021, and 14022 of the Corporations Code. The executive director of the office shall receive a salary as shall be fixed by the director of the department with the approval of the Department of Personnel Administration. The executive director shall be in charge of the Office of Small Business under the direction of the director of the department, consistent with duties as set forth in this part. The executive director may be dismissed by the director of the department after consideration by the Small Business Development Board and a recommendation thereof is submitted to the secretary. Finalization of the action is subject to approval by the Secretary of the Business, Transportation, and Housing Agency. Small Business Development Board approval of the action is not required. The executive director shall administer Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code.

SEC. 13. Section 15335.09 is added to the Government Code, to read:

15335.09. The executive director, following notification to the director, may do all of the following:

(a) Appoint such advisory groups as may be necessary to carry out his or her powers and duties. Such persons may be reimbursed per diem and travel expenses pursuant to state regulations.

(b) Call upon and reimburse for services any state agency or department for assistance in carrying out the Office of Small Business's objectives.

(c) Participate with government or private industry in programs for technical assistance, loans, technology transfer or any other programs related to this part and Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code.

(d) Exercise such other powers as may be necessary to carry out the purposes of this part and Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code.

SEC. 14. Section 15335.11 is added to the Government Code, to read:

15335.11. The Office of Small Business shall include in the department's report to the Legislature and to the Governor, as required by Section 15337, the steps which have been taken to fulfill the purpose of this part and Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code, which report shall describe:

(a) Action taken to encourage the formation of small business, urban and rural, development corporations.

(b) Evaluation of corporations formed under this part, including the most recent annual financial statements of each corporation.

(c) The number of businesses financially assisted through small business and employment-incentive loans, and the number of jobs created or retained through employment-incentive loans made pursuant to this part and Part 5 (commencing with Section 14000)

of Division 3 of Title 1 of the Corporations Code.

(d) The number of persons requesting information and attending conferences cosponsored by the office, and the total number of publications issued or sold under this part and Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code.

(e) Recommendations for action by the Governor and the Legislature to carry out the purposes of this part and Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code.

SEC. 15. Section 15335.13 is added to the Government Code, to read:

15335.13. To the extent permitted by the resources allocated to the office, the office may, in the manner the executive director determines fair and reasonable, provide to small businesses in this state qualifying under any of the programs under the jurisdiction of the office, all of the following:

(a) Financial assistance in the form of loan and loan guarantees through the California small business development corporations.

(b) Management and technical assistance.

(c) Public relations services.

(d) Representation of their interests before Congress, the Legislature, and state and federal agencies. State agencies shall cooperate and respond to inquiries of the office when it represents the interests of small businesses.

(e) Planning and research functions.

(f) In providing services and assistance under subdivisions (a) to (e), inclusive, the office may charge fees for workshops and seminars only, in an amount not to exceed the actual costs of providing the workshops and seminars.

SEC. 16. Section 15335.15 is added to the Government Code, to read:

15335.15. The office may cooperate with private industry councils or other special councils on purchasing to encourage major corporations doing business in this state to purchase from, and subcontract to, small and minority businesses in this state.

SEC. 17. Section 15335.17 is added to the Government Code, to read:

15335.17. The office may cooperate with the Department of General Services in establishing and maintaining a minority vendor file as a comprehensive listing and information source on small and minority businesses throughout the state for all businesses and industries.

SEC. 18. Section 15335.19 is added to the Government Code, to read:

15335.19. The office may establish a central reference program and general counseling service to assist small and minority businesses in their operations, including governmental requirements, such as taxation, accounting, and pollution control, and to provide information concerning the agency from which more specialized

assistance may be obtained.

CHAPTER 1281

An act to amend Section 5201 of, to amend and repeal Sections 605 and 27459.5 of, and to add Section 27459.6 to, the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

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

SECTION 1. Section 605 of the Vehicle Code is amended to read:

605. (a) "Tire chains" are chains or other devices which are designed for use on tires to improve stopping, traction, and cornering ability upon snow or ice-covered surfaces and which meet all of the following criteria:

(1) Cross members are spaced to provide at least one cross member in contact with the roadway at all times.

(2) Each cross member extends across at least 85 percent of the width of the tread.

(3) Major traction elements at least $^{9}/_{32}$ inch in height on each cross member at time of manufacture.

(4) At least four separate steel elements are in contact with the roadway at all times on each cross member.

(5) Each cross member is connected to two circular loops, one on each side of the tire, except for mechanisms designed to deploy and retract metal cross members under the tire when the vehicle is in motion.

(b) This section shall remain in effect only until December 31, 1986, at which time it is repealed, unless a later enacted statute, which is enacted before December 31, 1986, deletes or extends that date.

SEC. 2. Section 5201 of the Vehicle Code is amended to read:

5201. License plates shall at all times be securely fastened to the vehicle for which they are issued so as to prevent the plates from swinging and shall be mounted in a position to be clearly visible, and shall be maintained in a condition so as to be clearly legible. The rear license plate shall be mounted not less than 12 inches nor more than 60 inches from the ground, and the front license plate shall be mounted not more than 60 inches from the ground, except as follows:

(a) The rear license plate on a tow car may be mounted on the left-hand side of the mast assembly at the rear of the cab of the vehicle, not less than 12 inches nor more than 90 inches from the ground.

(b) The rear license plate on a tank vehicle hauling hazardous

waste, as defined in Section 25117 of the Health and Safety Code, or asphalt material may be mounted not less than 12 inches nor more than 90 inches from the ground.

(c) The rear license plate on a truck tractor may be mounted at the rear of the cab of the vehicle, not less than 12 inches nor more than 90 inches from the ground.

(d) The rear license plate of a vehicle designed by the manufacturer for the collection and transportation of garbage, rubbish, or refuse and which is used regularly for the collection and transportation of such material by any person or governmental entity employed to collect, transport, and dispose of garbage, rubbish, or refuse may be mounted not less than 12 inches nor more than 90 inches from the ground.

(e) No covering shall be used on license plates. However, the installation of a cover over a lawfully parked vehicle to protect it from the weather and the elements does not constitute a violation of this subdivision. Any peace officer or other regularly salaried employee of a public agency designated to enforce laws, including local ordinances, relating to the parking of vehicles may temporarily remove so much of such a cover as is necessary to inspect any license plate, tab, or indicia of registration on a vehicle.

SEC. 3. Section 27459.5 of the Vehicle Code is amended to read:

27459.5. (a) No person shall sell, offer for sale, lease, install, or replace on a vehicle for use on a highway, any tire chains which are not in compliance with requirements specified in Section 605.

(b) This section shall remain in effect only until December 31, 1986, at which time it is repealed, unless a later enacted statute, which is enacted before December 31, 1986, deletes or extends that date.

SEC. 4. Section 27459.6 is added to the Vehicle Code, to read:

27459.6. The department shall study the effectiveness of tire chains meeting the criteria of Section 605. The study shall include, but not be limited to, the effects on winter driving in chain control areas. The department may utilize funds from private sources in the conduct of the study. The study shall be submitted to the Legislature not later than December 31, 1986.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement statutory standards for tire chains before the snow season, to commence a study of tire chain standards without delay, and to promptly clarify the right of motorists to cover their vehicles, it is necessary that this act take effect immediately.

CHAPTER 1282

An act to amend Section 85024 of the Education Code, relating to community college districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

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

SECTION 1. (a) The governing board of a community college district may require students attending police academy programs to furnish durable personal equipment necessary for their employment as police officers.

(b) This section shall remain in effect only until the effective date of the regulations adopted pursuant to Section 2 of this act, and as of that date is repealed, unless a later enacted statute, which is chaptered before that effective date, deletes or extends that date.

SEC. 2. (a) The Legislature recognizes that Chapter 1 of the 1983–84 Second Extraordinary Session repealed the statutory authority of a community college district to charge fees for instructional materials until January 1, 1988. However, it was not the intent of the Legislature in enacting those provisions to require community college districts to provide all materials, textbooks, equipment, and clothing necessary for each course and program.

(b) Therefore, the Legislature hereby requests the Board of Governors of the California Community Colleges to adopt regulations to clarify the authority of community college districts to require students to provide various types of materials. It is the intent of the Legislature that these regulations specify the conditions under which districts may require students to provide those materials which are of continuing value to the student outside of the classroom setting, including, but not limited to, textbooks, tools, equipment, clothing, and those materials which are necessary for the student's vocational training and employment.

(c) It is further the intent of the Legislature that the board do all of the following:

(1) Establish a process for monitoring district compliance with the adopted regulations.

(2) Adopt final regulations regarding the matter identified in subdivision (b) by March 15, 1985.

SEC. 3. Section 85024 of the Education Code is amended to read:

85024. (a) Except as otherwise provided in subdivision (b), if the governing board of any community college district neglects or refuses to make a community college district budget as prescribed by the office of the Chancellor of the California Community Colleges, or fails to file a budget by the deadline dates specified in Section 85023, the chancellor may direct the county superintendent of

schools to, or the county superintendent of schools may, withhold any apportionment of state or local money to the particular community college district for the current community college fiscal year until the district complies with its duties pursuant to Section 85023.

(b) No penalty shall be imposed upon a district pursuant to subdivision (a) if the chancellor or the county superintendent of schools determines that unique circumstances make it impossible for the district to comply with its duties pursuant to Section 85023, or if there are delays in the adoption of the annual Budget Act.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide the state with timely and accurate information regarding the California Community Colleges and to continue the operation of the community college police academies, it is necessary that this act take effect immediately.

CHAPTER 1283

An act to add Section 20019.35 to the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

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

SECTION 1. Section 20019.35 is added to the Government Code, to read:

20019.35. "Local safety member" also includes all employees of a public safety agency whose principal duties consist of rendering prehospital emergency medical care to ill or injured persons and who are employees designated as Emergency Medical Technician-I, Emergency Medical Technician-II, or Emergency Medical Technician-Paramedic, as defined by, respectively, Sections 1797.80, 1797.82, and 1797.84 of the Health and Safety Code.

This section shall not apply to the employees of any contracting agency nor to any contracting agency unless and until the contracting agency elects to be subject to this section by amendment to its contract with the board made pursuant to Section 20461.5 or by express provision in its contract with the board.

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

Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1284

An act to amend Sections 955.1, 8558, 8657, and 11126 of the Government Code, relating to earthquake and volcanic predictions.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

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

SECTION 1. Section 955.1 of the Government Code is amended to read:

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

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

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

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

state of emergency or local emergency.

SEC. 2. Section 8558 of the Government Code is amended to read:

8558. Three conditions or degrees of emergency are established by this chapter:

(a) "State of war emergency" means the condition which exists immediately, with or without a proclamation thereof by the Governor, whenever this state or nation is attacked by an enemy of the United States, or upon receipt by the state of a warning from the federal government indicating that such an enemy attack is probable or imminent.

(b) "State of emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy or conditions causing a "state of war emergency," which conditions, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the California Public Utilities Commission.

(c) "Local emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the California Public Utilities Commission.

SEC. 3. Section 8657 of the Government Code is amended to read:

8657. (a) Volunteers duly enrolled or registered with the Office of Emergency Services or any disaster council of any political subdivision, or unregistered persons duly impressed into service during a state of war emergency, a state of emergency, or a local emergency, in carrying out, complying with, or attempting to comply with, any order or regulation issued or promulgated pursuant

to the provisions of this chapter or any local ordinance, or performing any of their authorized functions or duties or training for the performance of their authorized functions or duties, shall have the same degree of responsibility for their actions and enjoy the same immunities as officers and employees of the state and its political subdivisions performing similar work for their respective entities.

(b) No political subdivision or other public agency under any circumstances, nor the officers, employees, agents, or duly enrolled or registered volunteers thereof, or unregistered persons duly impressed into service during a state of war emergency, a state of emergency, or a local emergency, acting within the scope of their official duties under this chapter or any local ordinance shall be liable for personal injury or property damage sustained by any duly enrolled or registered volunteer engaged in or training for emergency preparedness or relief activity, or by any unregistered person duly impressed into service during a state of war emergency, a state of emergency, or a local emergency and engaged in such service. The foregoing shall not affect the right of any such person to receive benefits or compensation which may be specifically provided by the provisions of any federal or state statute nor shall it affect the right of any person to recover under the terms of any policy of insurance.

(c) The California Earthquake Prediction Evaluation Council, an advisory committee established pursuant to Section 8590 of this chapter, may advise the Governor of the existence of an earthquake or volcanic prediction having scientific validity. In its review, hearings, deliberations, or other validation procedures, members of the council, jointly and severally, shall have the same degree of responsibility for their actions and enjoy the same immunities as officers and employees of the state and its political subdivisions engaged in similar work in their respective entities. Any person making a presentation to the council as part of the council's validation process, including presentation of a prediction for validation, shall be deemed a member of the council until the council has found the prediction to have or not have scientific validity.

SEC. 4. Section 11126 of the Government Code is amended to read:

11126. (a) Nothing contained in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing. As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing, rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other

action taken against any employee at the closed session shall be null and void. The state body also may exclude from any such public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body. Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

For the purposes of this section, "employee" shall not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees.

(b) Nothing in this article shall be construed to prevent state bodies which administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(c) Nothing in this article shall be construed to prevent an advisory body of a state body which administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters which the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(d) Nothing in this article shall be construed to prohibit a state body from holding a closed session to deliberate on a decision to be reached based upon evidence introduced in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 or similar provision of law.

(e) Nothing in this article shall be construed to prevent any state body from holding a closed session to consider matters affecting the national security.

(f) Nothing in this article shall be construed to grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(g) Nothing in this article shall be construed to prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests which the donor or proposed donor has requested in writing to be kept confidential.

(h) Nothing in this article shall be construed to prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(i) Nothing in this article shall be construed to prevent the Trustees of the California State University from holding closed sessions dealing with site selection for the state university.

(j) Nothing in this article shall be construed to prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(k) Nothing in this article shall be construed to prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or data the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the executive officer of the Franchise Tax Board.

(*l*) Nothing in this article shall be construed to prevent the Board of Corrections from holding closed sessions when considering reports of crime conditions under the provisions of Section 6027 of the Penal Code.

(m) Nothing in this article shall be construed to prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(n) Nothing in this article shall be construed to prevent a state body which invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues which could have a material effect on the net income of the corporation.

(o) Nothing in this article shall be construed to prevent a state body, or such boards, commissions, administrative officers, or other representatives as may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(p) Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on

the institution of proceedings, or disciplinary actions against regulated utilities.

(q) Nothing in this article shall be construed to prevent a state body from holding a closed session to confer with legal counsel regarding pending litigation when discussion in open session concerning those matters would adversely affect or be detrimental to the public interest.

(r) Nothing in this article shall be construed to prevent a state body which invests in retirement, pension, or endowment funds from holding closed sessions to confer with legal counsel regarding pending litigation, when discussion in open session concerning these matters would adversely affect, or be detrimental to, those funds. For purposes of subdivision (q) and this subdivision, litigation shall be considered pending when a complaint, claim or petition for writ of mandate has been filed, or the threat of litigation is imminent in the sound opinion of the state body.

(s) Nothing in this article shall be construed to prevent the examining committee established by the State Board of Forestry, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(t) Nothing in this article shall be construed to prevent an administrative committee established by the State Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent an examining committee established by the Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

(u) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.2, from conducting a closed session to consider any matter which properly could be considered in closed session by the state body whose authority it exercises.

(v) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.7, from conducting a closed session to consider any matter which properly could be considered in a closed session by the body defined as a state body pursuant to Section 11121, 11121.2, or 11121.5.

(w) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.8, from conducting a closed session to consider any matter which properly could be considered in a closed session by the state body it advises.

(x) Nothing in this article shall be construed to prevent the State Board of Equalization from holding closed sessions when considering matters pertaining to the appointment or removal of the executive

secretary of the State Board of Equalization.

(y) Nothing in this article shall be construed to prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of the Office of Emergency Services or the Governor pursuant to Section 8590 concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

CHAPTER 1285

An act to amend Section 44479 of, to add Section 8153.5 to, and to repeal Section 44480.5 of, the Education Code, relating to education.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

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

SECTION 1. Section 8153.5 is added to the Education Code, to read:

8153.5. For purposes of the California Firefighter Joint Apprenticeship Program, classes of related and supplemental instruction which qualify for funding pursuant to Sections 8152 and 8153, include, but are not limited to, classes which meet both of the following requirements:

(a) The classes are conducted at the workplace.

(b) The person providing instruction is qualified, by means of education or experience, as a journeyman and shares the responsibility for supervision of the apprentices participating in the classes with the certified community college coordinator.

SEC. 1.5. Section 44479 of the Education Code is amended to read:

44479. (a) The commission shall, on or before March 1, 1985, develop a uniform state examination, with appropriate variations, which provides a method by which persons holding a valid California teaching credential may demonstrate their competence as a language development specialist. The first administration of the test shall take place no later than April 15, 1985.

(b) The uniform state examination for a language development specialist shall, at a minimum, consist of the following:

(1) A written examination.

(2) An oral interview.

(3) An evaluation of an ESOL teaching situation.

(c) The commission shall develop a uniform state examination and the variations, procedures, and contents thereof after consultation with organizations serving pupils of limited-English proficiency. The uniform state examination, and the variations thereof, shall be approved by the commission. State Department of

Education personnel who are familiar with bilingual education and language development, researchers, linguists, bilingual educators, and ESOL practitioners shall be consulted in the preparation of the examination contents and procedures. Costs incurred for the participation of these participants in the development of the state examination shall be borne by their respective agencies.

SEC. 2. Section 44480.5 of the Education Code is repealed.

CHAPTER 1286

An act to amend Sections 12412.1, 12460, 12461, 13300, 13335, 13336, 13337, 13338, 13339, and 17201 of, to add Sections 13305 and 53078 to, and to repeal Sections 12016 and 13338.5 of, the Government Code, relating to fiscal affairs.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984]

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

SECTION 1. The Legislature hereby finds and declares as follows:

(a) The State of California incurs unnecessary costs in accounting for its revenues and expenditures and the subsequent audits of its annual General Purpose Financial Statements because its current accounting system does not conform to Generally Accepted Accounting Principles.

(b) The establishment of a system which does conform to Generally Accepted Accounting Principles will improve the financial management of the state; lead to compliance with the standards established by the National Bond Rating establishment; and promote efficient use of audit resources necessary to attest to the accuracy of the accounting statements of the state and compliance with existing rules and regulation.

(c) The state budgeting process needs to be amended to insure that the benefits accruing from conformance to Generally Accepted Accounting Principles is reflected throughout the entire financial management system of the state.

(d) Local governments and nonprofit organizations incur unnecessary costs and paperwork burdens due to conflicting and redundant audit requirements for direct service contracts.

(e) The establishment of consistent audit requirements will improve the financial management of direct service contracts, promote the efficient use of audit resources, and insure public accountability for direct service contracts.

SEC. 2. Section 12016 of the Government Code is repealed.

SEC. 3. Section 12412.1 of the Government Code is amended to read:

12412.1. The Controller shall:

(a) Account for expenditures as scheduled in the Budget Act. This accounting shall utilize the uniform code structure developed jointly by the Department of Finance and the Controller.

(b) Account for receipt of all federal funds and cross-reference such funds by federal and state activity utilizing the federal revenue accounting system developed by the Department of Finance pursuant to Section 13300.

(c) Report monthly on each department's annual expenditure plan, comparing budget expenditures and actual expenditures as scheduled in the Budget Act and fund source.

(d) Report monthly on revenue with a comparison between actual and estimated revenue.

(e) Maintain a file of all records prepared or maintained by the Controller. The file shall be made available for purposes of the fiscal data system developed pursuant to subdivision (i) of Section 13337.

Reporting requirements under subdivisions (a) to (e), inclusive, of this section may be deemed satisfied upon making data available to the fiscal information system developed pursuant to subdivision (i) of Section 13337.

SEC. 4. Section 12460 of the Government Code is amended to read:

12460. The Controller shall submit an annual report to the Governor containing a statement of the funds of the state, its revenues, and the public expenditures during the preceding fiscal year. The annual report shall be prepared in the manner that will account for revenues and expenditures on the same basis as that of the Governor's Budget and the Budget Act. The format of the budgetary-legal report shall be prepared as closely as possible in accordance with "Generally Accepted Accounting Principles."

Until the Controller's records, the Budget Act, and information provided by each state department and agency based on the state's accounting system will permit the conversion to "Generally Accepted Accounting Principles," the Controller shall issue an additional report prepared strictly in accordance with "Generally Accepted Accounting Principles." The additional report will be prepared annually unless the Director of Finance and the Controller agree that such additional report is not feasible and so notify the Joint Legislative Audit Committee.

The annual report shall be compiled and published by the Controller in the time, form, and manner prescribed by him or her.

SEC. 5. Section 12461 of the Government Code is amended to read:

12461. The Controller's annual report shall include:

(a) General Purpose Financial Statements prepared in accordance with Section 12460 and "Generally Accepted Accounting Principles."

(b) Tabular statements showing:

(1) The amount of each appropriation for the preceding fiscal

year, the amounts expended, and the balance, if any.

(2) The revenues and cost of government of the state for such fiscal year, classified in such manner and detail as the Controller may determine.

(3) The receipts, disbursements, and closing balances of each fund in the State Treasury for such fiscal year.

(4) Variances between budgetary-legal statements prepared pursuant to Section 12460 and any statements prepared under "Generally Accepted Accounting Principles."

The Controller may also publish a condensed summary of such annual report.

The reports required by this article shall be printed.

SEC. 6. Section 13300 of the Government Code is amended to read:

13300. (a) The department shall devise, install, supervise, and, at its discretion, revise and modify, a modern and complete accounting system for each agency of the state permitted or charged by law with the handling of public money or its equivalent, to the end that all revenues, expenditures, receipts, disbursements, resources, obligations, and property of the state be properly, accurately, and systematically accounted for and that there shall be obtained accurate and comparable records, reports, and statements of all the financial affairs of the state.

(b) This system shall be of a nature so as to permit a comparison of budgeted expenditures, actual expenditures and encumbrances and payables, as defined by the California Fiscal Advisory Board, and estimated revenue to actual revenue, which is compatible with a budget coding system, developed by the department. In addition, the system shall provide for a federal revenue accounting system with cross-references of federal fund sources to state activities.

(c) This system shall include a cost accounting system which accounts for expenditures by line item, governmental unit and fund source. The system shall also be capable of performing program cost accounting as required. The system and the accounts maintained by the several agencies of the state shall be coordinated with the central accounts maintained by the Controller, and shall provide the Controller with all information necessary to the maintenance by the Controller of a comprehensive system of central accounts for the entire state government. The Controller or the Director of Finance may submit to the State Board of Control and the State Board of Control shall consider and adopt any rule or regulation required to implement this section.

(d) The requirements of this section shall apply to departments commencing with the second fiscal year following the fiscal year for which funds are appropriated by the Legislature to implement the provisions of this section. The department shall adopt guidelines and instructions to implement the application of this section.

SEC. 7. Section 13305 is added to the Government Code, to read:

13305. The Department of Finance, with the concurrence of the

Controller, may establish additional funds as are necessary to properly manage and account for the financial activities and resources of the state, provided that only the minimum number of funds necessary to comply with legal requirements, "Generally Accepted Accounting Principles," and effective financial administration shall be established.

Because complete conformance to "Generally Accepted Accounting Principles" may be impractical or not authorized, the Department of Finance is authorized to deviate from them if conformance would not be in the best interests of the state.

SEC. 8. Section 13335 of the Government Code is amended to read:

13335. The department shall develop, issue, and implement consistent and adequate guidelines to be utilized by agencies required to submit budgets pursuant to the provisions of Article 2 (commencing with Section 13320). Such guidelines shall, among other things:

(a) Ensure budgets that are reflective of an agency's activities.

(b) Ensure that the budgets are reflective of the costs which are associated with their execution.

(c) Ensure that where a program budget format is used, budgetary presentation is designed to display expenditures based on various goals or objectives. A program budget defines objectives and relates the proposed level of expenditure to meet that objective in the given budget year. A major objective may be divided into elements designed to meet the major objective and, in turn, these elements may be divided into components or tasks designed to complete a proposed work effort. Such program budgets shall reflect expenditures from all fund sources.

SEC. 9. Section 13336 of the Government Code is amended to read:

13336. The department shall, in cooperation with the Legislature, develop a format for utilization by agencies required to submit a program budget.

SEC. 10. Section 13337 of the Government Code is amended to read:

13337. (a) The budget required by the State Constitution to be submitted by the Governor at each regular session of the Legislature shall be submitted within the first 10 days thereof and shall contain a complete plan and itemized statement of all proposed expenditures of the state provided by existing law or recommended by him or her, and all of its institutions, departments, boards, bureaus, commissions, officers, employees and other agencies, and of all estimated revenues, for the ensuing fiscal year, together with a comparison, as to each item of revenues and expenditures, with the actual revenues and expenditures for the last completed fiscal year, the estimated revenues and expenditures for the existing fiscal year and the budgeted revenue and expenditures for the next fiscal year.

(b) The Governor, or the Department of Finance acting on his or

her behalf, shall make appropriate changes in the budget request to reflect any modification in the organization or functions of state government proposed under Article 7.5 (commencing with Section 12080) of Chapter 1 prior to the passage of the budget.

(c) The Governor's Budget shall be prepared in accordance with guidelines and instructions adopted by the Department of Finance.

(d) In order to provide meaningful comparisons, the Governor's Budget shall be prepared in such a manner that the information presented provides for such comparisons between the fiscal years.

(e) The Department of Finance shall submit to the committee in each house which considers appropriations and to the Joint Legislative Budget Committee copies of budget material submitted to it by agencies pursuant to the provisions of Article 2 (commencing with Section 13320).

(f) The Governor's Budget shall also include a coding structure which indicates for each budget entity the categorization of expenditures and revenues.

(g) Prior to the submission of the Governor's Budget to the Legislature, the Department of Finance may conduct public hearings regarding any portion of any budget.

(h) The Governor, or the Department of Finance acting on his or her behalf, shall, at the same time the Governor's Budget is submitted to the Legislature, submit to the Legislature copies of the material for the purposes of subdivision (i).

(i) The Department of Finance shall develop a fiscal information system which will provide timely and uniform fiscal data needed to formulate and monitor the Budget, including, but not limited to, on-line inquiry capacity and the ability to simulate budget expenditures and forecast revenues. This system may include, among other things, data on encumbrances and expenditures by line item, governmental unit, and fund source. The system shall also include expenditures and encumbrances by program, as required. This system shall also include a coding structure which indicates the categorization of expenditures and revenues. This system and the data shall be available to both the legislative and executive branches. The system may contain separate programs accessible by only one branch, designed to provide for distinct application of the data, but the basic system data shall be available on an equal basis to both the legislative and executive branches.

SEC. 11. Section 13338 of the Government Code is amended to read:

13338. (a) The Budget Bill shall utilize a coding scheme compatible with the Governor's Budget and with the records of the Controller.

(b) The Budget Bill shall provide for the appropriation of federal funds received by the state and deposited in the State Treasury.

SEC. 12. Section 13338.5 of the Government Code is repealed.

SEC. 13. Section 13339 of the Government Code is amended to read:

13339. (a) There is hereby created a California Fiscal Advisory Board consisting of the following members, or their representatives:

(1) Chairman of the committee in each house which considers appropriations.

(2) Chairman of the Joint Legislative Budget Committee.

(3) Chairman of the Joint Legislative Audit Committee.

(4) State Treasurer.

(5) State Controller.

(6) Director of Finance, who shall serve as chairman of the board.

(b) The board shall monitor and advise the legislative and executive branches regarding the implementation of this chapter. The board shall also make recommendations as to any further legislation that may be necessary in order to further the objectives of this chapter.

(c) In addition thereto, the advisory board shall review the budgeting and accounting process for the purpose of improving the preparation, legislative review and execution of the budget considering, but not limited to, the following subjects:

(1) The budget cycle.

(2) Adequate time for legislative review.

(3) Increased public participation.

(4) The basis of accounting revenues, expenditures, payables, and encumbrances.

The advisory board shall make a preliminary report of its recommendations by March 1, 1981, and a final report prior to the time subdivision (a) of Section 13338 is implemented.

This section shall remain in effect only until the time the provisions of Section 13300 become applicable to those state entities specified in subdivision (d) of Section 13300, and as of that date is repealed, unless a later enacted statute, which is chaptered before that date, deletes or extends the date.

SEC. 14. Section 17201 of the Government Code is amended to read:

17201. The State Board of Control may make rules and regulations governing the issuance and sale of registered warrants.

SEC. 15. Section 53078 is added to the Government Code, to read:

53078. (a) For the purposes of this section, "local agency" means any local agency which awards direct service contracts to nonprofit organizations including, but not limited to, any city, county, or city and county, special district, housing authority, school district, community college district, or county superintendent of schools.

(b) Any local agency may establish auditing procedures for direct service contractors as prescribed by Chapter 5 (commencing with Section 38040) of Division 25 of the Health and Safety Code.

CHAPTER 1287

An act to amend Sections 35250, 35401, 35401.5, and 35414 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

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

SECTION 1. Section 35250 of the Vehicle Code is amended to read:

35250. No vehicle or load shall exceed a height of 14 feet measured from the surface upon which the vehicle stands, except that a double-deck bus may not exceed a height of 14 feet, 3 inches. Any vehicle or load which exceeds a height of 13 feet, 6 inches, shall only be operated on those highways where deemed to be safe by the owner of the vehicle or the entity operating the bus.

SEC. 2. Section 35401 of the Vehicle Code is amended to read:

35401. (a) Except as provided in subdivisions (b) and (c), no combination of vehicles coupled together, including any attachments thereto, shall exceed a total length of 65 feet.

(b) A combination of vehicles coupled together, including any attachments thereto, which consists of a truck tractor, a semitrailer, and a trailer, shall not exceed a total length of 75 feet, provided that the length of neither the semitrailer nor the trailer in such combination of vehicles exceeds 28 feet 6 inches.

(c) Any city or county may, by ordinance, prohibit a combination of vehicles of a total length in excess of 60 feet upon highways under its respective jurisdiction. The ordinance shall not be effective until appropriate signs are erected indicating either the streets affected by the ordinance or the streets not affected, as the local authority determines will best serve to give notice of the ordinance.

(d) The Legislature, in enacting this section, does not intend to reduce, and this section shall not be construed to reduce, any maximum total length of any combination of vehicles permitted under the statutes as they existed on January 1, 1974.

SEC. 3. Section 35401.5 of the Vehicle Code is amended to read:

35401.5. (a) A combination of vehicles consisting of a truck tractor and semitrailer, or of a truck tractor, semitrailer, and trailer, is not subject to the limitations of Sections 35400 and 35401, when operating on the National System of Interstate and Defense Highways or when using those portions of federal-aid primary highways or federal-aid urban system highways that have been qualified by the United States Secretary of Transportation for such use, or when using routes appropriately identified by the Department of Transportation or local authorities as provided in subdivision (c), if the following conditions are met:

(1) The length of the semitrailer in exclusive combination with a truck tractor does not exceed 48 feet. For purposes of this paragraph, a motortruck used in combination with a semitrailer, when that combination of vehicles is engaged solely in the transportation of motor vehicles, is considered to be a truck tractor.

(2) Neither the length of the semitrailer nor the length of the trailer when simultaneously in combination with a truck tractor exceeds 28 feet 6 inches.

(b) Subdivisions (b), (c), (d), and (e) of Section 35402 do not apply to combinations of vehicles operated subject to the exemptions provided by this section.

(c) Combinations of vehicles operated pursuant to subdivision (a) may also use highways not specified in subdivision (a) which provide reasonable access to facilities for purposes limited to fuel, food, lodging, and repair when that access is consistent with the safe operation of the combinations of vehicles and when the facility is within one-half road mile of identified points of ingress and egress to or from highways specified in subdivision (a) for use by those combinations of vehicles. However, access to a terminal is permitted only on those routes which the Department of Transportation and affected local authorities have jointly identified and signed as being connections between terminals and the highways specified in subdivision (a), after having determined that the route or routes are adequate to accommodate the vehicle combinations specified in subdivision (a). The signing of routes by the Department of Transportation and local authorities is not required, except to indicate those routes which may be used as terminal connection routes.

For purposes of this subdivision, "terminal" means a facility at which freight is consolidated to be shipped or where full-load consignments may be offloaded, or at which the vehicle combinations are regularly maintained, stored, or manufactured.

(d) Notwithstanding subdivision (c), the limitations of access specified in that subdivision do not apply to licensed carriers of household goods when directly enroute to or from a point of loading or unloading of household goods, if travel on highways other than those specified in subdivision (a) is necessary and incidental to the shipment of the household goods.

SEC. 4. Section 35414 of the Vehicle Code is amended to read:

35414. (a) Except where a load can be transported consistent with limitations on vehicle and load length specified in other sections of this chapter, the limitations of this chapter as to length of vehicles do not apply when only poles, timbers, pipes, integral structural materials, or single unit component parts, including, but not limited to, missile components, aircraft assemblies, drilling equipment, and tanks not exceeding 80 feet in length are being transported upon any of the following:

(1) Upon a pole or pipe dolly or otherwise lawful trailer used as a pole or pipe dolly in connection with a motor vehicle.

(2) Upon a semitrailer, except for the limitations provided in Section 35410.

(3) Upon a semitrailer and a pole or pipe dolly used in connection with a truck tractor to haul flexible integral structural material.

(b) Poles and the tools and materials incidental to the work to be performed may be transported on a single-axle pole or pipe dolly or otherwise lawful single-axle semitrailer used as a pole or pipe dolly, transporting not more than three poles not exceeding 80 feet in length and when used by public utility companies or local public agencies engaged in the business of supplying electricity or telephone service, by the Department of Transportation, or by a licensed contractor in the performance of work for a utility, the department, or a local public agency, when such transportation is between a storage yard and job location where such tools and materials are to be used, in which event the limitations of this chapter as to length of vehicles and loads shall not apply.

SEC. 5. Section 1 of this act shall become operative on the date of enactment of Assembly Bill No. 1498 of the 1983–84 Regular Session of the Legislature. If Assembly Bill No. 1498 is not enacted, Section 1 of this act shall not become operative.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the state's economy to take full advantage of the combined benefits and efficiencies which will accrue from increasing the allowable height of vehicles and establishing uniform length restrictions for trailers and semitrailers used in simultaneous combination with a truck tractor, and to increase highway safety by limiting exceptions to vehicle length limitations, it is necessary that this act take effect immediately.

CHAPTER 1288

An act to amend Sections 117.14 and 1052 of the Code of Civil Procedure, and to amend Sections 71008, 73642, 73643.1, 73644, 73648, 73952, 73958, 73959.2, 74341, 74342, 74350, 74357, 74370, 74741, 74742, and 74746 of, and to repeal and add Sections 73643, 73953, 74343, 74343.1, 74364, 74374, and 74743 of, the Government Code, relating to courts.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

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

SECTION 1. Section 117.14 of the Code of Civil Procedure is amended to read:

117.14. (a) A fee of six dollars ($6) shall be charged and collected for the filing of a claim under oath if the number of claims filed by the party in each court in the preceding 12 calendar months is 12 or less; and a fee of twelve dollars ($12) shall be collected for the filing of any additional claims. For each party to whom a copy of the claim is mailed by the clerk a fee of three dollars ($3) shall be charged and collected. Fees as provided in Sections 26828 and 26834 of the Government Code shall be charged and collected by the clerk for the issuance of a writ of execution or an abstract of judgment. Except as otherwise provided for in this chapter, no other fee or charge shall be collected by any officer for any service rendered under this chapter, or for the taking of affidavits for use in connection with any action commenced under this chapter. All fees collected under this section shall be deposited with the treasurer of the city and county or county under whose jurisdiction any such court shall exist.

(b) The number of claims filed by a party during the preceding 12 calendar months shall be determined pursuant to a declaration made by the party under penalty of perjury stating the number of claims so filed and submitted to the clerk with the current claim.

SEC. 2. Section 1052 of the Code of Civil Procedure is amended to read:

1052. The clerk of a municipal or justice court may keep among the records of the court a register of civil actions in which shall be entered the title of the action commenced in that court, with brief notes under it, from time to time, of all papers filed and proceedings had therein.

SEC. 3. Section 71008 of the Government Code is amended to read:

71008. (a) All papers and records filed and kept in all proceedings in municipal and justice courts, may, upon the order of the presiding judge of any such court, be destroyed after the expiration of the minimum retention period set forth in subdivision (b) or (c), as applicable. The retention period shall be measured from the determination of the proceeding or of the forfeiture of bail in cases in which no other proceedings are had during a like period following such forfeiture.

(b) The minimum retention periods for all papers and records other than those set forth in subdivision (c) are, as follows:

(1) Two years for cases involving alleged violations of Chapter 9 (commencing with Section 22500) of Division 11 of the Vehicle Code or of any local ordinance adopted pursuant thereto, for cases relating to stopping, standing, or parking, and for cases involving alleged violations of Division 14 (commencing with Section 30501) of the Food and Agricultural Code or of any local ordinance adopted pursuant thereto relating to the regulation or licensing of dogs. Records for cases involving alleged violations of subdivision (b) or (c) of Section 11357 or subdivision (c) of Section 11360 of the Health

and Safety Code may be destroyed after two years in accordance with Section 11361.5 of the Health and Safety Code.

(2) Three years for those records specified in Section 1269 of the Penal Code and for all other records not specified in this section.

(3) Four years for all infraction cases not specified in paragraph (1), and for any misdemeanor case involving an alleged violation of the Vehicle Code other than Sections 14601, 14601.1, 20002, 23104, 23105, 23106, and 23152.

(4) Five years for all other misdemeanor cases including cases involving alleged violations of Section 14601, 14601.1, 20002, 23104, 23105, 23106, or 23152 of the Vehicle Code, and all felony cases.

(5) Ten years in any civil action or special proceeding, including small claims actions, from the date on which judgment became final, or if the case was not prosecuted to judgment, after a like period from the date of commencement of the action or proceeding.

(c) The minimum retention period for the docket, register of actions, and indexes in any municipal or justice court action governed by paragraphs (4) and (5) of subdivision (b) shall be 10 years, except that upon the written request of any party to an action involving the records governed by paragraphs (4) and (5) of subdivision (b) the docket or register of actions shall be retained for an additional 10 years. In all other cases, the docket and minutes may be destroyed concurrently with other papers and records affecting the case.

SEC. 4. Section 73642 of the Government Code is amended to read:

73642. There shall be one court administrator who shall serve as clerk of the court, and who shall be appointed by the judges of the court. The salary of the court administrator shall be 33 percent higher than that specified for the classification of assistant court administrator of the El Cajon Judicial District. Appointment to such position shall be at step 2 of the range unless the appointee is entitled to a higher step under the provisions of subdivision (c) of Section 73648.

SEC. 5. Section 73643 of the Government Code is repealed.

SEC. 6. Section 73643 is added to the Government Code, to read:

73643. The court administrator may appoint, with the approval of the judges:

(a) One assistant court administrator. The assistant court administrator shall serve as the assistant clerk of the court and shall receive a biweekly salary at a rate 18 percent below that specified for assistant court administrator of the San Diego Judicial District.

(b) One deputy clerk-administrative assistant I, II, or III as the case may be. A deputy clerk-administrative assistant I shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant I in the classified service of San Diego County. A deputy clerk-administrative assistant II shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant II in the classified service of San Diego

County. A deputy clerk-administrative assistant III shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant III in the classified service of San Diego County.

(c) Two division managers III each of whom shall receive a biweekly salary at a rate 15.2 percent higher than that specified for division manager II of the San Diego Judicial District.

(d) Five division managers I each of whom shall receive a biweekly salary at a rate 10 percent higher than that specified for deputy clerk V of the San Diego Judicial District.

(e) Sixteen deputy clerks IV each of whom shall receive a biweekly salary at a rate equal to that specified for the classification of superior court clerk in the classified service of San Diego County.

(f) Fifty-five deputy clerks III, II, or I, as the case may be. Each of the deputy clerks III shall receive a biweekly salary at a rate 17 percent below that specified for deputy clerk IV. Each of the deputy clerks II shall receive a biweekly salary at a rate 14 percent below that specified for deputy clerk III. Each of the deputy clerks I shall receive a biweekly salary at a rate equal to that specified for the classification of intermediate clerk-typist in the classified service of San Diego County. At the discretion of the court administrator, appointments to the deputy clerk I classification may be at any step within the salary range.

(g) Four deputy clerk data entry operators, each of whom shall receive a biweekly salary at a rate equal to that specified for the classification of data entry operator in the classified service of San Diego County.

(h) One deputy clerk-administrative secretary IV who shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of San Diego County.

(i) One deputy clerk interpreter who shall receive a biweekly salary at a rate equal to that specified for deputy clerk III.

(j) Up to 10 extra help positions (hourly rate employees) to be appointed by the court administrator in the class and salary level deemed appropriate. These appointments shall be temporary for a period not to exceed six months, plus one additional period of up to six months, at the court administrator's option. Notwithstanding any other provisions of this section, the court administrator may fill these positions with personnel employed for less than 91 working days during the fiscal year on a part-time basis.

(k) Not to exceed 10 deputy clerk-court workers may be appointed by the court administrator. These appointments shall be subject to the provisions and requirements of subdivision (q) of Section 74343.

(*l*) Notwithstanding subdivision (c) of Section 73648, the court administrator may appoint up to 10 temporary extra help deputy clerk student workers I, II, or III, who shall be paid at an hourly rate and shall serve at the pleasure of the court administrator. A deputy

clerk student worker I shall receive an hourly salary at a rate equal to that specified for the classification of student worker I in the unclassified service of San Diego County. A deputy clerk student worker II shall receive an hourly salary at a rate equal to that specified for the classification of student worker II in the unclassified service of San Diego County. A deputy clerk student worker III shall receive an hourly salary at a rate equal to that specified for the classification of student worker III in the unclassified service of San Diego County.

(m) Any person occupying a position specified in subdivision (f) and performing bilingual duties as certified by the court administrator shall be paid additional compensation at the biweekly rate determined by the court administrator as specified for bilingual ability in the salary ordinance of the County of San Diego.

(n) Any person specified in subdivision (e) or (f) who is regularly assigned and certified by the court administrators as working more than 50 percent of his or her time or who is assigned more than 40 hours in any one pay period to operate a CRT machine; or to operate word processing equipment; or who is assigned to transcribe from a machine will be paid additional compensation at the biweekly rate specified for CRT machine, transcribing equipment, and word processing equipment operation in the salary ordinance of the County of San Diego. This additional compensation shall be in addition to the salary prescribed for his or her class for hours worked. For purposes of terminal pay, this premium shall not be computed on the employee's base wage rate.

(o) Any person specified in subdivision (h) shall be eligible for the additional compensation provided for in subdivision (n) if such additional compensation is authorized for the comparable county classification specified in subdivision (f) of Section 74343.1.

(p) Except as provided in this section, Section 74343.1 shall apply to the attachés appointed pursuant to this section and Section 73642.

SEC. 7. Section 73643.1 of the Government Code is amended to read:

73643.1. In the event of an increase in the number of judges the court administrator may appoint one deputy clerk IV, one deputy clerk III, one deputy clerk II, and one deputy clerk I, for each additional judgeship created. Such additional deputy clerks shall receive a biweekly salary at the rate specified for their classifications in Section 73643.

SEC. 8. Section 73644 of the Government Code is amended to read:

73644. By order entered in the minutes of the court, a majority of judges may appoint two judicial secretaries who shall be attachés of the court. The judicial secretary shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of the County of San Diego commencing at step D at initial employment and advancing to step E at the end of one year of continuous service.

The position of judicial secretary shall be deemed comparable to the position of administrative secretary IV in the classified service of San Diego County. Whenever the salary of administrative secretary IV is adjusted by the Board of Supervisors of San Diego County, the salary of the judicial secretaries shall be adjusted a commensurate percentage in the salary schedule on the same date.

Notwithstanding the provisions of Section 73648, the judicial secretaries shall receive and be entitled to the same vacations, sick leave, leaves of absence and similar privileges and benefits as are now or may hereafter be provided for administrative secretary IV in the classified service of the County of San Diego; provided, however, that the majority of the municipal court judges may adopt rules to provide for vacations, sick leave, leaves of absence and similar privileges and benefits different from those for administrative secretary IV in the classified service of the County of San Diego.

SEC. 9. Section 73648 of the Government Code is amended to read:

73648. (a) All persons holding positions on the effective date of any amendments to this article shall continue in their respective positions without further examination or qualification and at the added compensation provided in this article, including increments for continuous prior service in such positions in the court. Any person whose title is changed as a result of any amendments to this article shall receive credit for continued service to which he or she would be entitled under his or her previous position and shall receive compensation at the step covering such length of service. Thereafter, any increments earned by additional service in grade shall take effect upon the first day of the pay period following completion of such required service.

(b) In addition to the compensation provided in this article, the classifications of attachés of the municipal court shall receive, and they shall be entitled to the same vacations, holidays, sick leave, leaves of absence, bilingual pay, merit pay increases, retirement benefits and similar privileges and benefits as are now or may hereafter be provided for the employees of the County of San Diego in the comparable classifications specified in subdivision (f) of Section 74343.1, including the right to participate in a retirement plan, and in any group health, accident or life insurance plan adopted by the Board of Supervisors of San Diego County, and in the tuition refund and suggestion awards programs adopted by the board. For purposes of this subdivision only, the court administrator and assistant court administrator shall receive the same privileges and benefits as are received by the classification of chief probation officer of the classified service of the County of San Diego. All persons holding positions in classifications of division manager I, division manager III, and deputy clerk-administrative assistant III shall receive the same privileges and benefits as are received by the classification of administrative assistant III of the classified service of the County of San Diego. The term "same privileges and benefits"

for purposes of this section shall include, but not be limited to, any benefits which are available to comparable classifications in the classified service of San Diego County pursuant to the provisions of any ordinance of the County of San Diego which credit to a member of the San Diego County Employees Retirement System extra days or fractions thereof, of service for retirement purposes for each day of uncompensated sick leave and deferred compensation benefits. Changes in privileges and benefits shall be effective on the same date as those for employees of the County of San Diego in comparable classifications. The majority of all the municipal court judges may adopt rules for the conduct of and personnel privileges to be afforded the attachés of the court.

(c) All attachés may be appointed, promoted, removed, suspended or discharged for cause by the appointing authority subject in such appointment, promotion, removal, suspension or discharge to civil service provisions applicable to the classified personnel of San Diego County. Whenever a person or attaché is appointed or promoted to a position, such person or attaché shall serve a probationary period of at least six months.

(d) Notwithstanding the provisions of Section 71183, a person appointed by the court administrator from an eligible list certified by the Civil Service Commission of the County of San Diego to fill a temporary position established pursuant to Section 72150 and employed in such temporary position immediately prior to the effective date of any amendments to this article, may be appointed by such court administrator to a like permanent position in such court administrator's office without further examination, qualification or certification on a civil service eligible list; provided, that the number of such positions in the court administrator's office has been increased so as to make such temporary position a permanent position.

SEC. 10. Section 73952 of the Government Code is amended to read:

73952. There shall be one court administrator who shall serve as clerk of the court, who shall be appointed by, and serve at the pleasure of the judges of the court. The salary of the court administrator shall be 33 percent higher than that specified for the classification of assistant court administrator of the North County Judicial District. Appointment to such position shall be at step 2 of the salary schedule unless the appointee is entitled to a higher step under the provisions of subdivision (c) of Section 74350.

SEC. 11. Section 73953 of the Government Code is repealed.

SEC. 12. Section 73953 is added to the Government Code, to read:

73953. The court administrator shall appoint:

(a) One assistant court administrator at the direction of a majority of the judges of the court, who shall serve at the pleasure of the judges. The salary of the assistant clerk shall be 18 percent below that specified for assistant court administrator of the San Diego Judicial District.

(b) Two deputy clerks who shall be division managers III and who shall receive a biweekly salary at a rate 15.2 percent higher than that specified for assistant division managers II, in the San Diego Judicial District. Upon the occurrence of the first vacancy in one of the positions of division manager III shall cease to exist; provided, however, that there shall be a concurring increase of one position in the classification of division manager I.

(c) Four deputy clerks who shall be division managers I and who shall receive a biweekly salary at the rate 10 percent higher than that specified for deputy clerk V in the San Diego Judicial District.

(d) Up to 10 extra help positions (hourly rate employees) to be appointed by the court administrator in the class and salary level deemed appropriate. These appointments shall be temporary for a period not to exceed six months, plus one additional period of up to six months, at the court administrator's option. Notwithstanding any other provisions of this section, the court administrator may fill these positions with persons employed for less than 90 working days during a fiscal year on a part-time basis.

(e) Sixteen deputy clerks IV, each of whom shall receive the biweekly salary at a rate equal to that specified for the classification of superior court clerks in the classified service of San Diego County. Clerks assigned to positions that the court administrator has designated as requiring specialized skills and training, shall receive a biweekly salary 5 percent higher than that which such deputy clerks were receiving prior to such assignment. This premium shall apply to time worked, shall not apply toward paid time off or terminal pay, and shall remain in effect so long as the provision for such 5-percent bonus exists for superior court clerks within the salary ordinance of the County of San Diego.

(f) Eighty deputy clerks III, II, or I, as the case may be. Each deputy clerk III shall receive the biweekly salary at a rate 17 percent below that specified for deputy clerk IV. Each deputy clerk II shall receive the biweekly salary at a rate 14 percent below that specified for deputy clerk III. Each deputy clerk I shall receive the biweekly salary equal to that specified for the classification of intermediate clerk-typist in the classified service of San Diego County. At the discretion of the court administrator, appointments to the deputy clerk I classification may be at any step within the salary range.

(g) Two deputy clerk data entry operators, each of whom shall receive a biweekly salary at a rate equal to that specified for data entry operators in the classified service of San Diego County.

(h) Two deputy clerk-administrative secretaries IV, III, II, or I, as the case may be. A deputy clerk-administrative secretary IV shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of San Diego County. A deputy clerk-administrative secretary III shall receive a biweekly salary at the rate specified for administrative secretary III in the classified service in the County of San Diego. A deputy clerk-administrative secretary II shall receive a biweekly salary at

the rate specified for administrative secretary II in the classified service in the County of San Diego. A deputy clerk-administrative secretary I shall receive a biweekly salary at the rate specified for administrative secretary I in the classified service of the County of San Diego.

(i) One deputy clerk interpreter who shall receive the biweekly salary at the rate equal to that specified for deputy clerk III.

(j) One deputy clerk-administrative assistant I, II, or III, as the case may be. The deputy clerk-administrative assistant I, II, or III, shall receive the biweekly salary at a rate equal to that specified for administrative assistant I, II, or III, respectively, in the classified service of the County of San Diego.

(k) Any person occupying a position in subdivision (f) and performing bilingual duties as certified by the court administrator shall be paid additional compensation at the biweekly rate determined by the court administrator as specified for bilingual ability in the salary ordinance of the County of San Diego.

(*l*) Any person specified in subdivisions (e) and (f) who is regularly assigned and certified by the court administrator as working more than 50 percent of his or her time or who is assigned more than 40 hours in any one pay period to operate a CRT machine; or to operate word processing equipment; or who is assigned to transcribe from a machine shall be paid additional compensation at the biweekly rate specified for CRT machine, transcribing equipment and word processing equipment operation in the Salary Ordinance of the County of San Diego. This additional compensation shall be in addition to the salary prescribed for his or her class for all hours worked in a pay period. For purposes of terminal pay, this premium shall not be computed on the employee's base wage rate.

(m) Any person specified in subdivision (h) shall be eligible for the additional compensation provided under subdivision (l) if such additional compensation is authorized for the comparable county classification specified in subdivision (f) of Section 74343.1.

(n) Three deputy administrative clerks III, II, or I, as the case may be. Each deputy administrative clerk III shall receive the biweekly salary at a rate equal to that specified for the classification of deputy clerk IV. Each deputy administrative clerk II shall receive the biweekly salary at a rate equal to that specified for the classification of deputy clerk III. Each deputy administrative clerk I shall receive the biweekly salary at a rate equal to that specified for the classification of deputy clerk II. Deputy administrative clerk III, II, or I shall receive the same privileges and benefits as are received by comparable deputy clerk classes. Funding of these positions is dependent upon enactment of an additional resolution by the Board of Supervisors of the County of San Diego.

(o) Not to exceed 10 deputy clerk-court workers may be appointed by the court administrator. Such appointments shall be subject to the provisions and requirements of subdivision (g) of Section 74343.

(p) Except as provided herein, the provisions of Section 74343.1 shall apply to the attachés appointed pursuant to this section and Section 73952.

(q) One deputy clerk-senior systems analyst, associate systems analyst, or assistant systems analyst, as the case may be. A deputy clerk-senior systems analyst shall receive a biweekly salary at a rate equal to that specified for the classification of senior systems analyst in the classified service of the County of San Diego. A deputy clerk-associate systems analyst shall receive a biweekly salary at a rate equal to that specified for the classification of associate systems analyst in the classified service of the County of San Diego. A deputy clerk-assistant systems analyst shall receive a biweekly salary at a rate equal to that specified for the classification of assistant systems analyst in the classified service of the County of San Diego.

(r) Notwithstanding subdivision (c) of Section 73958, the court administrator may appoint up to 10 temporary extra help deputy clerk student workers I, II, or III, who shall be paid at an hourly rate and shall serve at the pleasure of the court administrator. Deputy clerk student worker I shall receive an hourly salary at a rate equal to that specified for the classification of student worker I in the County of San Diego. Deputy clerk student worker II shall receive an hourly salary at a rate equal to that specified for the classification of student worker II. Deputy clerk student worker III shall receive an hourly salary at a rate equal to that specified for the classification of student worker III in the County of San Diego.

SEC. 13. Section 73958 of the Government Code is amended to read:

73958. (a) All persons holding positions on the effective date of any amendments to this article shall continue in their respective positions without further examination or qualification and at the added compensation provided in this article, including increments for continuous prior service in such positions in the court. Any person whose title is changed as a result of any amendments to this article shall receive credit for continued service to which he or she would be entitled under his or her previous position and shall receive compensation at the step covering such length of service. Thereafter, any increments earned by additional service in grade shall take effect upon the first day of the pay period following completion of such required service.

(b) In addition to the compensation provided in this article, the classifications of attachés of the municipal court shall receive, and they shall be entitled to the same vacations, holidays, sick leave, leaves of absence, bilingual pay, merit pay increases, retirement benefits and similar privileges and benefits as are now or may hereafter be provided for the employees of the County of San Diego in the comparable classifications specified in subdivision (f) of Section 74343.1, including the right to participate in a retirement plan, in any group health, accident or life insurance plan, and in the tuition refund and suggestion awards programs adopted by the

Board of Supervisors of San Diego County. For purposes of this subdivision only, the court administrator, and assistant court administrator, shall receive the same privileges and benefits as are received by the classification of chief probation officer of the County of San Diego. Division managers III and division managers I shall receive the same privileges and benefits as are received by the classification of administrative assistant III of the classified service of the County of San Diego. The term "same privileges and benefits" for purposes of this section shall include, but not be limited to, any benefits which are available to comparable classifications in the classified civil service of San Diego County pursuant to the provisions of any ordinance of the County of San Diego which credit to a member of the San Diego County Employees Retirement System extra days or fractions thereof, of service for retirement purposes for each day of uncompensated sick leave. Changes in privileges and benefits shall be effective on the same date as they are for employees of the County of San Diego in comparable classifications. The majority of all the municipal court judges may adopt rules for the conduct of and personnel privileges to be afforded the attachés of the court.

(c) All attachés, except for the court administrator, the assistant court administrator, and the judicial secretary, may be appointed, promoted, removed, suspended or discharged for cause by the appointing authority subject in such appointment, promotion, removal, suspension or discharge to civil service provisions, applicable to the classified personnel of San Diego County. Whenever a person or attaché is appointed or promoted to a position, such person or attaché must serve a probationary period of at least six months.

(d) Notwithstanding the provisions of Section 71183, a person appointed by the court administrator from an eligible list certified by the Civil Service Commission of the County of San Diego to fill a temporary position established pursuant to Section 72150 and employed in such temporary position immediately prior to the effective date of any amendments to this article, may be appointed by such court administrator to a like permanent position in such court administrator's office without further examination, qualification or certification on a civil service eligible list; provided, that the number of such positions in the court administrator's office has been increased so as to make such temporary position a permanent position.

SEC. 14. Section 73959.2 of the Government Code is amended to read:

73959.2. By order entered in the minutes of this court, a majority of judges may appoint one commissioner who shall serve at the pleasure of the judges. The commissioner shall receive a biweekly salary equal to, as determined by local rule of court, between 50 percent and 75 percent of a judge of a municipal court. The comparable court classification to commissioner for the purposes of

privileges and benefits shall be deputy county counsel IV in the County of San Diego. With the approval of the judges of the court, the commissioner may be reimbursed for any payment he or she makes for his or her annual State Bar of California membership fee.

SEC. 15. Section 74341 of the Government Code is amended to read:

74341. There shall be 23 judges.

SEC. 16. Section 74342 of the Government Code is amended to read:

74342. There shall be one court administrator who shall serve as clerk of the court. He or she shall be appointed by a majority of the judges of the court and, notwithstanding the provisions of Section 74343.1, shall serve at the pleasure of the judges. He or she shall receive a biweekly salary at a rate 35 percent higher than that specified for the position of assistant court administrator of the San Diego Judicial District.

SEC. 17. Section 74343 of the Government Code is repealed.

SEC. 18. Section 74343 is added to the Government Code, to read:

74343. The court administrator may appoint:

(a) One assistant court administrator, with the consent of a majority of the judges of the court, who shall be empowered to act in the place and stead of the court administrator in the event that the court administrator is absent or unavailable for any reason and who shall receive a biweekly salary at a rate 41.9 percent higher than that specified for the position of division manager III.

(b) Four deputy clerks each of whom shall be division managers III and who shall receive a biweekly salary at a rate 15.2 percent higher than that specified for division manger II. One of these positions may be named to act as branch manager. While acting in the capacity of branch manager the position shall receive a bonus of 10 percent.

(c) Five deputy clerks each of whom shall be division managers II and who shall receive a biweekly salary at a rate 15.5 percent higher than that specified for deputy clerk V.

(d) Eight deputy clerks V each of whom shall receive a biweekly salary at a rate 11 percent higher than that specified for deputy clerk IV.

(e) Forty-seven deputy clerks IV, each of whom shall receive a biweekly salary at a rate equal to that specified for the classification of superior court clerks in the classified service in the County of San Diego.

(f) One deputy clerk data entry supervisor who shall receive a biweekly salary at a rate equal to that specified for the classification of data entry supervisor in the classified service in the County of San Diego. Each vacancy occurring in this class shall cause a corresponding reduction in the number of deputy clerk data entry supervisors authorized; provided, however, that each of such vacancies shall increase by one, the number of positions designated

as deputy clerk III.

(g) One hundred eighty deputy clerks III, II, or I, as the case may be. Each deputy clerk III shall receive a biweekly salary at a rate 17 percent below that specified for deputy clerk IV. Each deputy clerk II shall receive a biweekly salary at a rate 14 percent below that specified for a deputy clerk III. Each of the deputy clerks I shall receive a biweekly salary equal to that specified for the classification of intermediate clerk-typist in the classified service of the County of San Diego. Appointments to the deputy clerk I classification may be at any step within the salary range at the discretion of the court administrator.

(h) Four deputy clerk data entry operators who shall receive a biweekly salary at a rate equal to that specified for the classification data entry operators in the classified service in the County of San Diego. Each vacancy occurring in this class, if specified by the court administrator, shall cause a corresponding reduction in the number of deputy clerk data entry operators authorized; provided, however, that each of such vacancies so specified shall increase by one, the number of positions designated as deputy clerk II.

(i) Three deputy clerk interpreters, each of whom shall receive a biweekly salary at a rate equal to that specified for deputy clerk III.

(j) One deputy clerk-administrative secretary IV who shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service in the County of San Diego.

(k) One deputy clerk-administrative secretary III, II, or I, as the case may be. A deputy clerk administrative secretary III shall receive a biweekly salary at the rate specified for administrative secretary III in the classified service in the County of San Diego. A deputy clerk-administrative secretary II shall receive a biweekly salary at the rate specified for administrative secretary II in the classified service in the County of San Diego. A deputy clerk-administrative secretary I shall receive a biweekly salary at the rate specified for administrative secretary I in the classified service of the County of San Diego.

(*l*) One deputy clerk, chief-administrative services or administrative assistant III as the case may be. A deputy clerk, chief-administrative services shall receive a biweekly salary at a rate equal to that specified for the classification of chief-administrative services in the classified service in the County of San Diego. A deputy clerk-administrative assistant III shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant III in the classified service in the County of San Diego.

(m) One deputy clerk-administrative assistant III, II, or I, or one deputy clerk-assistant, associate or senior accountant, as the case may be. A deputy clerk-administrative assistant III shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant III in the classified service in the county of San Diego. A deputy clerk-administrative assistant II shall receive

a biweekly salary at a rate equal to that specified for the classification of administrative assistant II in the classified service in the County of San Diego. A deputy clerk-administrative assistant I shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant I in the classified service in the County of San Diego. A deputy clerk-assistant acountant shall receive a biweekly salary at a rate equal to that specified for the classification of assistant accountant in the classified service in the County of San Diego. A deputy clerk-associate accountant shall receive a biweekly salary at a rate equal to that specified for the classification of associate accountant in the classified service in the County of San Diego. A deputy clerk-senior accountant shall receive a biweekly salary at a rate equal to that specified for the classification of senior accountant in the classified service in the County of San Diego.

(n) Any person occupying a position specified in subdivision (g) and performing bilingual duties as certified by the court administrator shall be paid additional compensation at the biweekly rate determined by the court administrator as specified for bilingual ability in the salary ordinance of the County of San Diego.

(o) Any person specified in subdivision (e) or (g) who is regularly assigned and certified by the court administrator as working more than 50 percent of his or her time or who is assigned more than 40 hours in any one pay period to operate a CRT machine, transcribing equipment and word processing equipment; or who is assigned to transcribe from a machine, shall be paid additional compensation at the biweekly rate specified for CRT machine, transcribing equipment and word processing equipment operation in the salary ordinance of the county of San Diego. This additional compensation shall be in addition to the salary prescribed for his or her class for all hours worked. For purposes of terminal pay, this premium shall not be computed on the employee's base wage rate.

(p) Twenty-six clerks assigned to positions that the court administrator has designated as requiring specialized skills and training, while serving in such capacities as a deputy clerk IV or below, shall receive a biweekly salary 5 percent higher than that which such deputy clerks were receiving prior to such assignment. This premium shall apply to time worked, shall not apply toward paid time off or to terminal pay, and shall remain in effect so long as the provision for the 5-percent bonus exists for superior court clerk assignment within the salary ordinance of the County of San Diego. The court administrator shall promulgate specific job-related criteria to measure these specialized skills and training as they relate to work assignments as a courtroom clerk or as a supervisor, and shall provide all affected parties with these criteria within one month after the commencement of the period of eligibility.

(q) Up to 10 deputy clerk-court workers. The class of deputy clerk-court worker provides for temporary appointments to positions for which no specific classifications have been established pending a review and evaluation of the duties of these positions by the court

administrator, and the establishment of specific classifications. The rate of pay for each individual employed in this class shall be within the designated range at a rate determined by the court administrator. In all cases, the application of the rules contained in this article as they relate to appointments to deputy clerk-court worker shall be governed by the application of this article as it applies to the duties of the class that is pending establishment. Appointments shall be temporary and shall not exceed 18 months. The salary range for persons employed pursuant to this section shall be three hundred ninety-seven dollars and sixty cents ($397.60) to one thousand five hundred eight dollars and eighty cents ($1,508.80) biweekly, or four dollars and ninety-seven cents ($4.97) to eighteen dollars and eighty-six cents ($18.86) hourly. Employee benefits, if applicable, shall be equal to those granted to the class in the classified service of San Diego County to which the pending classification will be tied for benefit purposes. While deputy clerk-court workers will not be eligible for automatic step increases provided in Section 74343.1, paid service as a deputy clerk-court worker may be counted toward step increases in the employee's permanent position which immediately follows the deputy clerk-court worker position.

(r) One deputy clerk-senior systems analyst, associate systems analyst, or assistant systems analyst as the case may be. A deputy clerk-senior systems analyst shall receive a biweekly salary at a rate equal to that specified for the classification of senior systems analyst in the classified service of the County of San Diego. A deputy clerk-associate systems analyst shall receive a biweekly salary at a rate equal to that specified for the classification of associate systems analyst in the classified service of the County of San Diego. A deputy clerk-assistant systems analyst shall receive a biweekly salary at a rate equal to that specified for the classification of assistant systems analyst in the classified service of the County of San Diego.

(s) One deputy clerk-printer who shall receive a biweekly salary at a rate equal to that specified for the classification of publications supervisor in the classified service of the County of San Diego.

(t) Up to 10 extra help deputy clerk trainee positions (hourly rate) to be appointed at the junior clerk-typist level as determined by the court administrator. These appointments shall be temporary for a period not to exceed six months, plus one additional period at the court administrator's option, not to exceed six months.

(u) Up to 10 extra help positions (hourly rate employees) to be appointed by the court administrator in the class and salary level deemed appropriate. These appointments shall be temporary for a period not to exceed six months, plus one additional period of up to six months, at the court administrator's option. Notwithstanding any other provisions of this section, the court administrator may fill these positions with persons employed for less than 91 working days during a fiscal year on a part-time basis.

SEC. 19. Section 74343.1 of the Government Code is repealed.

SEC. 20. Section 74343.1 is added to the Government Code, to

read:

74343.1. The salary schedule adopted by the Board of Supervisors of San Diego County for compensation of classified personnel is adopted and by reference incorporated herein.

(a) In no event shall the salary of the clerk or any deputy clerk who occupied his or her position on the day prior to the effective date of this section be less than his or her salary on such day. The salaries and percentages prescribed herein shall be calculated using the hourly rate of the highest step of both classes involved in such calculation, and the resulting hourly rate shall be rounded to the nearest cent. All pay steps referred to in this article shall for all purposes be considered to be steps 1, 2, 3, 4, and 5, respectively, and shall reflect hourly and biweekly rates at approximate 5-percent increments between steps.

(b) Unless otherwise specifically provided, each person appointed or promoted to a position, the compensation of which is fixed by reference to the salary schedule adopted by the Board of Supervisors of San Diego County for compensation of classified personnel shall, for the first six months of service, receive biweekly the rate of compensation specified in step 1 of the salary schedule for the position to which he or she is appointed. Upon the first day of the pay period following six months continuous service in step 1, the initial rate of compensation of such person shall be increased to step 2 of the salary schedule for the position occupied. Upon the first day of the pay period following six months' continuous service in step 2, the initial rate of compensation of such person shall be increased to step 3 of the salary schedule for the position occupied. On the first day of the pay period following six months of continuous service at step 3, such compensation shall be increased to step 4 of the salary schedule. On the first day of the pay period following 12 months of continuous service at step 4, such compensation shall be increased to step 5 of the salary schedule.

The provisions of this subdivision shall not apply to any person employed on and after January 1, 1975, and any such person shall be entitled to receive the same step increases as set forth in the salary ordinance of the County of San Diego on or after July 1, 1974.

(c) When any person in the service of the County of San Diego or in the service of another municipal court in San Diego County is appointed to a position in the service of the court compensated at a higher salary range than the salary range for the position relinquished or when any person in the service of the court is appointed or promoted to another position in such service compensated at a higher salary, he or she shall receive step 1 of such schedule if step 1 is at least one step higher than the salary received in the position relinquished; but if not, he or she shall receive initially that step schedule pertaining to such position which will provide a one-step increase in his or her compensation.

(d) Officers and attachés may be voluntarily transferred from a position in the service of a court in one judicial district to a position

in the service of a court in another judicial district within the County of San Diego, from a position in the service of the County of San Diego to a position in the service of a court, from a position in the service of a court to a position in the service of the County of San Diego, or between the offices of court administrator and marshal in the same manner that classified employees of the County of San Diego may be transferred between departments of the county. In determining the step of the salary schedule at which such transferred employee shall be paid, the employee may be given credit for continuous prior service in the service of the court or the County of San Diego from which he or she was transferred.

(e) When any person in the service of the court is demoted to another position he or she shall receive compensation at the highest step of the salary schedule applicable to the position to which he or she is demoted which provides a salary not higher than that previously received by such person, except that if such demotion is due to disciplinary action, the appointing authority may specify any step rate of such schedule which provides compensation not higher than that last previously received by such person.

(f) The hereinafter enumerated classes of positions in the court are deemed to be comparable in job level to certain classifications in the civil service of San Diego County and whenever the salaries of such classifications in the service of San Diego County are adjusted by the board of supervisors, the salaries of the comparable classifications in the office of the court administrator shall be adjusted a commensurate percentage in the salary schedule. Such adjustment shall not be more than 20 percent higher or 20 percent lower than the salary schedule specified in this article. Such adjustments shall be effective on the same date of the action by the board of supervisors as it applies to the county classifications. In the event that the salary of any of the San Diego County classifications listed in this section is adjusted by the board of supervisors on any day prior to the effective date of any amendments to this article enacted by the Legislature at the 1983–84 Regular Session of the Legislature, commensurate adjustments shall be applied to the salaries of the comparable classifications in the court administrator's office, such adjustment to take effect on the effective date of any amendments to this article enacted at the 1983–84 Regular Session of the Legislature. The comparable classifications are as follows:

Municipal court classification	County classification
Deputy clerk, division manager III	Superior court clerk
Deputy clerk, division manager II	Superior court clerk
Deputy clerk, division manager I	Superior court clerk
Deputy clerk I	Intermediate clerk
Deputy clerk II	Superior court clerk
Deputy clerk III	Superior court clerk
Deputy clerk IV	Superior court clerk

Deputy clerk V	Superior court clerk
Supervising deputy clerk	Superior court clerk
Deputy clerk data entry supervisor	Data entry supervisor
Deputy clerk data entry operator	Data entry operator
Deputy clerk interpreter	Superior court clerk
Deputy clerk-administrative secretary III	Administrative secretary III
Deputy clerk-administrative secretary II	Administrative secretary II
Deputy clerk-administrative secretary I	Administrative secretary I
Deputy clerk-administrative secretary IV	Administrative secretary IV
Deputy clerk-chief Administrative Services	Chief, Administrative Services
Deputy clerk-administrative assistant III	Administrative assistant III
Deputy clerk-administrative assistant II	Administrative assistant II
Deputy clerk-administrative assistant I	Administrative assistant I
Deputy clerk-senior systems analyst	Senior systems analyst
Deputy clerk-associate systems analyst	Associate systems analyst
Deputy clerk-assistant systems analyst	Assistant systems analyst
Deputy clerk-senior accountant	Senior accountant
Deputy clerk-associate accountant	Associate accountant
Deputy clerk-assistant accountant	Assistant accountant
Deputy clerk-printer	Publications supervisor
Deputy clerk-trainee	Junior clerk-typist

(g) The court administrator and the assistant court administrator shall be eligible for the variable incentive compensation plan applicable to the executive service in the County of San Diego. Any initial step changes required by such plan shall be effective January 1, 1984. Any incentive adjustments hereafter granted shall be prospective only, and are subject to prior approval of the court, in the case of the court administrator, and of the court administrator in the case of the assistant court administrator. The court and the court administrator respectively shall promulgate specific job-related criteria to measure such performance, and must provide all affected attachés with criteria within one month after the commencement of the period of eligibility.

(h) All persons holding positions as chief, administrative services; division manager I, II, or III; and administrative assistant III; shall be eligible for the variable incentive compensation plan applicable to the classifications represented by the Management Association in the

County of San Diego. Any initial step changes required by such plan shall be effective upon the effective date of this amendment. Any incentive adjustments hereafter granted shall be prospective only, and are subject to prior approval of the court administrator. The court administrator shall promulgate specific job-related criteria to measure such performance, and must provide all affected attachés with such criteria within one month after the commencement of the period of eligibility. (Sec. 74343.4 is omitted)

SEC. 21. Section 74350 of the Government Code is amended to read:

74350. (a) All persons holding positions on the effective date of any amendments to this article shall continue in their respective positions without further examination or qualification and at the added compensation provided in this article, including increments for continuous prior service in such positions in the court. Any person whose title is changed as a result of any amendments to this article shall receive credit for continued service to which he or she would be entitled under his or her previous position and shall receive compensation at the step covering such length of service. Thereafter, any increments earned by additional service in grade shall take effect upon the first day of the pay period following completion of such required service.

(b) In addition to the compensation provided in this article, the classifications of attachés of the municipal court shall receive, and they shall be entitled to the same vacations, holidays, sick leave, leaves of absence, bilingual pay, merit pay increases, retirement benefits and similar privileges and benefits as are now or may hereafter be provided for the employees of the County of San Diego in the comparable classifications specified in Section 74343.1, including the right to participate in a retirement plan, in any group health, accident or life insurance plan adopted by the Board of Supervisors of San Diego County, and in the tuition refund and suggestion awards programs adopted by the board. For purposes of this subdivision only, the court administrator and assistant court administrator shall receive the same privileges and benefits as are received by the classification of chief probation officer, of the classified service of the County of San Diego. All persons holding positions in the classification of division managers I, II, or III shall receive the same privileges and benefits as are received by the classification of administrative assistant III of the classified service of the County of San Diego. The term "same privileges and benefits" for the purposes of this section shall include, but not be limited to, any benefits which are available to comparable classifications in the classified civil service of San Diego County pursuant to the provisions of any ordinance of the County of San Diego which credit to a member of the San Diego County Employees Retirement System extra days or fractions thereof, of service for retirement purposes for each day of uncompensated sick leave. Changes in privileges and benefits shall be effective on the same date as those for employees of the County of San

Diego in comparable classifications. The majority of all the municipal court judges may adopt rules for the conduct of and personnel privileges to be afforded the attachés of the court.

(c) All attachés may be appointed, promoted, removed, suspended or discharged for cause by the appointing authority subject in such appointment, promotion, removal, suspension or discharge to civil service provisions applicable to the classified personnel of San Diego County. Whenever a person or attaché is appointed or promoted to a position, such person or attaché must serve a probationary period of at least six months.

(d) Notwithstanding the provisions of Section 71183, a person appointed by the court administrator from an eligible list certified by the County of San Diego to fill a temporary position established pursuant to Section 72150 and employed in such temporary position immediately prior to the effective date of any amendments to this article, may be appointed by such court administrator to a like permanent position in such court administrator's office without further examination, qualification or certification on a civil service eligible list; provided, that the number of such positions in the court administrator's office has been increased so as to make such temporary position a permanent position.

SEC. 22. Section 74357 of the Government Code is amended to read:

74357. By order entered upon the minutes of the court, a majority of the judges of the municipal court of the San Diego Judicial District may appoint as many competent judicial secretaries as the business of the court requires, not to exceed six, who shall hold office during the pleasure of the judges of the court. One of these secretaries shall be appointed by the majority of the judges of the court as the chief judicial secretary, who, while serving in that capacity, shall receive a biweekly salary at a rate 25 percent higher than that specified for judicial secretary. Appointment to such position shall be at step 5.

Each judicial secretary other than the chief judicial secretary shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of the County of San Diego, commencing at step 4 at initial employment and advancing to step 5 at the end of one year of continuous service.

Whenever the salary of administrative secretary IV of the classified service of the County of San Diego is adjusted by the Board of Supervisors of San Diego County, the salaries of the chief judicial secretary and judicial secretaries shall be adjusted a commensurate percentage on the same date, such adjustments to take effect on the effective date of any amendments to this article enacted at the 1983–84 Regular Session of the Legislature. Any salary adjustments made as a result of this section shall be effective only until January 1, 1986.

Notwithstanding the provisions of Section 74350, the chief judicial secretary and judicial secretaries shall receive and be entitled to the same vacations, sick leave, leaves of absence and similar privileges and benefits as are now or may hereafter be provided for administra-

tive secretary IV in the classified service of the County of San Diego; provided, however, that the majority of the municipal court judges may adopt rules to provide for vacations, sick leave, leaves of absence and similar privileges and benefits different from those for administrative secretary IV in the classified service of the County of San Diego.

SEC. 23. Section 74364 of the Government Code is repealed.

SEC. 24. Section 74364 is added to the Government Code, to read:

74364. The marshal may make the following appointments each of whom shall receive the biweekly compensation as specified in the salary schedule adopted by the Board of Supervisors of San Diego County for compensation of classified personnel, which schedule is incorporated herein by reference:

(a) One assistant marshal. The compensation of the assistant marshal shall be 20 percent higher than that specified for captain.

(b) Four captains.

(c) Four lieutenants.

(d) Seventeen sergeants.

(e) One hundred fifty deputy marshals; provided, however, that each vacancy occurring in this class shall not be filled and shall cause a corresponding reduction in the number of deputy marshal positions authorized until the number of deputy marshal positions authorized is reduced to 125; provided, however, that each of such vacancies shall increase by one a position designated as court service officer under subdivision (p).

Any deputy marshal who may be assigned by the marshal to one of seven positions designated as lead deputy, shall receive, while serving in that capacity, biweekly compensation at a rate 5 percent higher than that received by the deputy.

The marshal may, at his discretion, replace a deputy marshal position by accepting a lateral transfer from another California peace officer agency. The transferee must be actively employed in a position enumerated in Section 830.1 or 830.2 of the Penal Code prior to transfer.

(f) One administrative secretary I, II, or III.

(g) One chief, administrative services or administrative assistant III.

(h) Eighteen intermediate typists.

(i) Six senior typists.

(j) Thirty deputy marshal-cadets. Notwithstanding any other provisions of this article, in no event shall a deputy marshal-cadet's salary be less than 65 percent of the salary of a deputy marshal at the corresponding pay step. The marshal-cadet is a peace officer trainee position which requires appointees to be at least 18 years of age and meet the qualifications and standards prescribed for deputy marshals. At the time an incumbent in the class of deputy marshal-cadet attains the age of 21 he or she may be appointed by the marshal to a position in the class of deputy marshal or court service officer, provided such position is open, without further qualification or ex-

amination.

A deputy marshal-cadet shall receive 65 percent of the uniform allowance prescribed for deputy marshals, under the same conditions prescribed for deputy marshals. In the event that a deputy marshal-cadet is appointed to the class of deputy marshal or court service officer, he or she shall receive the amount of reimbursement of the cost of required uniforms and equipment prescribed for a newly hired deputy marshal or court service officer, less any reimbursement received by him or her for the cost of required deputy marshal-cadet uniforms and equipment.

(k) Up to 15 extra help positions (hourly rate employees) to be appointed at a level as determined by the marshal. Such appointments shall be temporary for a period not to exceed six months, plus one additional period at the marshal's option, not to exceed six months. Notwithstanding any other provisions of this section, the marshal may fill these positions with persons employed for less than 91 working days during a fiscal year on a part-time basis.

(l) One junior typist. Each vacancy occurring in this class shall cause a corresponding reduction in the number of junior typists hereby authorized; provided, however, that such vacancy shall increase by one, a position in the class intermediate typist under subdivision (h).

(m) Eight legal procedures clerks III.

(n) Twenty-four legal procedures clerks II or I.

(o) Every person specified in subdivision (f), (h), (i), (j), (*l*), (m), or (n) who works a night shift shall be paid an hourly bonus equivalent to that bonus paid to night shift workers in the classified service of San Diego County who are in the comparable positions specified in Section 74374. Every person specified in subdivision (f), (h), (i), (j), (*l*), (m), or (n) who is regularly assigned and certified by the marshal as working more than 50 percent of his or her time, or who is assigned more than 40 hours in any one pay period to operate a CRT machine, or to operate word processing equipment; or who is assigned to transcribe from a machine may be paid additional compensation at the biweekly rate specified for CRT machine, transcribing equipment and word processing equipment operation in the Salary Ordinance of the County of San Diego. This additional compensation shall be in addition to the salary prescribed for his or her class for all hours worked. For purposes of terminal pay, this premium shall not be computed on the employee's base wage rate.

(p) Fifty court service officers. In no event shall a court service officer's salary be less than 75 percent of a deputy marshal at the corresponding pay step. A court service officer shall receive the same uniform allowance prescribed for a deputy marshal, under the same conditions prescribed for deputy marshals. Notwithstanding the provisions of subdivision (e), at such time as the total number of deputy marshals has reached 130 as a result of the operation of subdivision (e), the marshal may appoint a court service officer to a position of deputy marshal without further qualification or examina-

tion; provided, however, that not more than three such appointments shall be made until the number of deputy marshals positions authorized is reduced to 125. In the event that a court service officer is appointed to the position of deputy marshal, he or she shall receive the amount of reimbursement prescribed for a newly hired deputy marshal, less any reimbursement received by him or her for the cost of required court service officer uniforms and equipment. Court service officers shall be peace officers pursuant to Section 830.4 of the Penal Code. Notwithstanding any other provision of law, court services officers shall be general members of the County Employees Retirement System.

(q) Any person specified in subdivisions (f), (h), and (i), who may be assigned by the marshal to one of the positions designated as executive secretary or administrative-personnel secretary shall receive, while serving in that capacity, biweekly compensation at a rate 10 percent higher than that specified in such person's designated subdivision.

(r) Two principal clerks.

(s) Two communications dispatchers.

(t) Two administrative assistants III, II, I, or trainee.

(u) Notwithstanding any other provision of this article, when an employee provided for in this article is eligible for increased compensation as a result of possessing a Peace Officer Standards and Training certificate, such increased compensation shall be the biweekly rate specified in the Salary Ordinance of the County of San Diego for comparable classifications in the classified civil service of the County of San Diego.

(v) Three student workers I, II, or III. In the event the County of San Diego adopts a broad pay category for a single class of student worker, the marshal shall have the authority to select the pay level within the range adopted by the county for any student worker appointed, based on education and experience of the appointee.

SEC. 25. Section 74370 of the Government Code is amended to read:

74370. In addition to the compensation provided in this article the marshals and other attachés of the municipal court shall receive, and they shall be entitled to the same vacation, sick leaves, leaves of absence, bilingual pay, holidays, merit pay increases, retirement benefit, deferred compensation benefits, and all privileges and benefits as are now or may hereafter be provided for the employees of the County of San Diego, including the right to participate in any group accident, health, life insurance, or retirement plan adopted by the board of supervisors of the county.

For purposes of providing the privileges and benefits specified in this section, each classification in the marshal's office shall receive benefits equal to those of the comparable classification in the classified civil service of San Diego County as specified in Section 74374. The term "benefits equal" for purposes of this section shall include, but not be limited to, any benefits which are available to comparable

classifications in the classified civil service of San Diego County pursuant to the provisions of any ordinance of the County of San Diego which credit to a member of the San Diego County Employees Retirement System extra days, or fractions thereof, of service for retirement purposes for each day of uncompensated sick leave. For the purpose of this subdivision only, the marshal and assistant marshals shall receive no less privileges and benefits than are received by the classifications of chief probation officer of the classified service of the County of San Diego.

Incumbents in the following classes shall be eligible for the variable incentive compensation plan applicable to the classes represented by the Management Association in the County of San Diego: captain; chief, administrative services; and administrative assistant III. Any initial step changes required by this plan shall be effective January 1, 1985. Any incentive adjustments hereafter granted shall be prospective only, and are subject to prior approval of the marshal. The marshal shall promulgate specific job-related criteria to measure job performance, and shall provide all affected attachés with this criteria within one month after the commencement of the period of eligibility.

SEC. 26. Section 74374 of the Government Code is repealed.

SEC. 27. Section 74374 is added to the Government Code, to read:

74374. The hereinafter enumerated classes of positions in the marshal's office of San Diego County are deemed to be equivalent in job, salary level, and benefit level to certain classifications in the classified civil service of San Diego County and whenever the salary of a classification in the service of San Diego County is adjusted by the board of supervisors, the salary of the equivalent classification in the marshal's office shall be adjusted in the same amount. Such adjustments shall be effective on the same date as the effective date of the action by the board of supervisors as it applies to the county classifications. In the event a system of merit pay increases is established by the County of San Diego for employees in a particular classification, like merit increases, if justified, may be authorized by the appointing authority for marshal's office employees who are in equivalent classifications. Any salary adjustments made as a result of this section shall be effective until amended by the Legislature.

The equivalent classifications are as follows:

Marshal classification	County classification
Captain	Deputy sheriff-captain
Lieutenant	Deputy sheriff-lieutenant
Sergeant	Deputy sheriff-sergeant
Deputy marshal	Deputy sheriff
Court service officer	Revenue and recovery officer II
Cadet	Revenue and recovery officer trainee

Communications dispatcher	Communications dispatcher
Principal clerk	Principal clerk
Legal procedures clerk III	Legal procedures clerk III
Legal procedures clerk II	Legal procedures clerk II
Legal procedures clerk I	Legal procedures clerk I
Senior typist	Senior clerk-typist
Intermediate typist	Intermediate clerk-typist
Junior typist	Junior clerk-typist
Chief, administrative services	Chief, administrative services
Administrative assistant III	Administrative assistant III
Administrative assistant II	Administrative assistant II
Administrative assistant I	Administrative assistant I
Administrative trainee	Administrative trainee
Administrative secretary III	Administrative secretary III
Administrative secretary II	Administrative secretary II
Administrative secretary I	Administrative secretary I
Student worker I	Student worker I
Student worker II	Student worker II
Student worker III	Student worker III

SEC. 18. Section 74741 of the Government Code is amended to read:

74741. There shall be seven judges.

SEC. 29. Section 74742 of the Government Code is amended to read:

74742. There shall be one court administrator who shall serve as clerk of the court and who shall be appointed by the judges of the court. The salary of the court administrator shall be 33 percent higher than that specified for the classification of assistant court administrator of the South Bay Judicial District.

Appointment to such position shall be at step 3 of the range unless the appointee is entitled to a higher step under the provisions of subdivision (c) of Section 74350.

SEC. 30. Section 74743 of the Government Code is repealed.

SEC. 31. Section 74743 is added to the Government Code, to read:

74743. The court administrator may appoint with the approval of the judges:

(a) One assistant court administrator. The assistant court administrator shall serve as the assistant clerk of the court and shall receive a biweekly salary at a rate 18 percent below that specified for assistant court administrator of the San Diego Judicial District.

(b) One deputy clerk-administrative assistant I, II, or III, as the case may be. A deputy clerk-administrative assistant I shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant I in the classified service of San Diego County. A deputy clerk-administrative assistant II shall receive a weekly salary at a rate equal to that specified for the classification of administrative assistant II in the classified service of San Diego Coun-

ty. A deputy clerk-administrative assistant III shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant III in the classified service of San Diego County.

(c) One division manager III who shall receive a biweekly salary at a rate 15.2 percent higher than that specified for division manager II in the San Diego Judicial District.

(d) Three division managers I each of whom shall receive a biweekly salary at a rate 10 percent higher than that specified for the classification of deputy clerk V in the San Diego Judicial District.

(e) One deputy clerk-assistant, associate, or senior accountant, as the case may be. A deputy clerk-assistant accountant shall receive a biweekly salary at a rate equal to that specified for the classification of assistant accountant in the classified service of San Diego County. A deputy clerk-associate accountant shall receive a biweekly salary at a rate equal to that specified for the classification of associate accountant in the classified service of San Diego County. A deputy clerk-senior accountant shall receive a biweekly salary at a rate equal to that specified for the classification of senior accountant in the classified service of San Diego County.

(f) Eleven deputy clerks IV, each of whom shall receive a biweekly salary equal to that specified for the classification of superior court clerk in the classified service of San Diego County.

(g) Thirty-nine deputy clerks III, II, or I, as the case may be. Each of the deputy clerks III shall receive a biweekly salary at a rate 17 percent below that specified for deputy clerk IV. Each of the deputy clerks II shall receive a biweekly salary at a rate 14 percent below that specified for deputy clerk III. Each of the deputy clerks I shall receive a biweekly salary equal to that specified for the classification of intermediate clerk-typist in the classified service of San Diego County. At the discretion of the court administrator, appointments to the deputy clerk I classification may be at any step within the salary range.

(h) Three deputy clerk data entry operators, each of whom shall receive a biweekly salary at a rate equal to that specified for the classification of data entry operator in the classified service of San Diego County.

(i) One deputy clerk-administrative secretary IV who shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of San Diego County.

(j) One deputy clerk-administrative secretary III, II, or I, as the case may be. A deputy clerk-administrative secretary III shall receive a biweekly salary at the rate specified for administrative secretary III in the classified service of San Diego County. A deputy clerk-administrative secretary II shall receive a biweekly salary at the rate specified for administrative secretary II in the classified service of San Diego County. A deputy clerk administrative secretary I shall receive a weekly salary at the rate specified for administrative secretary I in the classified service of San Diego County.

(k) Two deputy clerk interpreters who shall receive a biweekly salary at a rate equal to that specified for deputy clerk III.

(*l*) Any person occupying a position specified in subdivision (g) and performing bilingual duties as certified by the court administrator shall be paid additional compensation at the biweekly rate determined by the court administrator as specified for bilingual ability in the salary ordinance of the County of San Diego.

(m) Any person specified in subdivisions (f) or (g) who is regularly assigned and certified by the court administrator as working more than 50 percent of his or her time or who is assigned more than 40 hours in any one pay period to operate word processing equipment, or a CRT machine; or who is assigned to transcribe from a machine, shall be paid additional compensation at the biweekly rate specified for CRT machine, transcribing equipment, and word processing equipment operation in the salary ordinance of the County of San Diego. This additional compensation shall be in addition to the salary prescribed for his or her class for all hours worked. For purposes of terminal pay, this premium shall not be computed on the employee's base wage rate.

(n) Not to exceed 10 deputy clerk-court workers may be appointed by the court administrator. Such appointments shall be subject to the provisions and requirements of subdivision (q) of Section 74343.

(o) Except as provided herein, the provisions of Section 74343.1 shall apply to the attachés appointed pursuant to this section and Section 74742.

(p) Any person specified in subdivision (j) shall be eligible for the additional compensation provided under subdivision (m) if such additional compensation is authorized for the comparable county classification specified in subdivision (f) of Section 74343.1.

(q) Up to 10 extra help positions (hourly rate employees) to be appointed by the court administrator in the class and salary level deemed appropriate. These appointments shall be temporary for a period not to exceed six months, plus one additional period of up to six months, at the court administrator's option. Notwithstanding any other provisions of this section, the court administrator may fill these positions with persons employed for less than 91 working days during a fiscal year on a part-time basis.

(r) Notwithstanding subdivision (c) of Section 74746, the court administrator may appoint up to 10 temporary extra help deputy clerk-student workers I, II, or III, who shall be paid at an hourly rate and shall serve at the pleasure of the court administrator. A deputy clerk-student worker I shall receive an hourly salary at a rate equal to that specified for the classification of student worker I in the unclassified service of San Diego County. A deputy clerk-student worker II shall receive an hourly salary at a rate equal to that specified for the classification of student worker II in the unclassified service of San Diego County. A deputy clerk-student worker III shall receive an hourly salary at a rate equal to that specified for the classification of student worker III in the unclassified service of San

Diego County.

SEC. 32. Section 74746 of the Government Code is amended to read:

74746. (a) All persons holding positions on the effective date of any amendments to this article shall continue in their respective positions without further examination or qualification and at the added compensation provided in this article, including increments for continuous prior service in such positions in the court. Any person whose title is changed as a result of any amendments to this article shall receive credit for continued service to which he or she would be entitled under his or her previous position and shall receive compensation at the step covering such length of service. Thereafter, any increments earned by additional service in grade shall take effect upon the first day of the pay period following completion of such required service.

(b) In addition to the compensation provided in this article, the classifications of attachés of the municipal court shall receive, and they shall be entitled to the same vacations, sick leave, leaves of absence, bilingual pay, merit pay increases, retirement benefits and similar privileges and benefits as are now or may hereafter be provided for the employees of the County of San Diego in the comparable classifications specified in Section 74343.1, including the right to participate in a retirement plan, in any group health, accident or life insurance plan adopted by the Board of Supervisors of San Diego County, and in the tuition refund and suggestion awards programs adopted by the board.

For purposes of this subdivision only, the court administrator and assistant court administrator shall receive the same privileges and benefits as are received by the classification of chief probation officer of the County of San Diego. All persons holding positions in the classifications of division manager III or I shall receive the same privileges and benefits as are received by the classification of administrative assistant III of the classified service of the County of San Diego.

The term "same privileges and benefits" for purposes of this section shall include, but not be limited to, any benefits which are available to comparable classifications in the classified service of San Diego County pursuant to the provisions of any ordinance of the County of San Diego which credit to a member of the San Diego County Employees Retirement System extra days or fractions thereof, of service for retirement purposes for each day of uncompensated sick leave. Changes in privileges and benefits shall be effective on the same date as those for employees of the County of San Diego in comparable classifications. The majority of all the municipal court judges may adopt rules for the conduct of the personnel privileges to be afforded the attachés of the court.

(c) All attachés may be appointed, promoted, removed, suspended, or discharged for cause by the appointing authority subject in such appointment, promotion, removal, suspension, or discharge to

civil service provisions applicable to the classified personnel of San Diego County. Whenever a person or attaché is appointed or promoted to a position, such person or attaché shall serve a probationary period of at least six months.

(d) Notwithstanding the provisions of Section 71183, a person appointed by the clerk from an eligible list certified by the Civil Service Commission of the County of San Diego to fill a temporary position established pursuant to Section 72150 and employed in such temporary position immediately prior to the effective date of any amendments to this article, may be appointed by such clerk to a like permanent position in such clerk's office without further examination, qualification or certification on a civil service eligible list, provided, that the number of such positions in the clerk's office has been increased so as to make such temporary position a permanent position.

SEC. 33. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1289

An act to amend Sections 5020.1, 5020.2, 5020.3, and 5020.4 of, and to add Sections 5020.6 and 5024.6 to, the Public Resources Code, relating to historical resources.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

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

SECTION 1. Section 5020.1 of the Public Resources Code is amended to read:

5020.1. As used in this article:

(a) "Commission" means the State Historical Resources Commission.

(b) "Historical resource" includes, but is not limited to, any object, building, structure, site, area, place, record, or manuscript which is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California.

(c) "Historical landmark" means any historical resource which is registered as a state historical landmark pursuant to Section 5021.

(d) "Point of historical interest" means any historical resource which is registered as a point of historical interest pursuant to Section 5021.

(e) "Office" means the State Office of Historic Preservation.

(f) "Officer" means the State Historic Preservation Officer.

(g) "Folklife" means traditional expressive culture shared within familial, ethnic, occupational, or regional groups and includes, but is not limited to, technical skill, language, music, oral history, ritual, pageantry, and handicraft traditions which are learned orally, by imitation, or in performance, and are generally maintained without benefit of formal instruction or institutional direction. However, "folklife" does not include an area or a site solely on the basis that those activities took place in that area or on that site.

SEC. 2. Section 5020.2 of the Public Resources Code is amended to read:

5020.2. (a) The commission consists of nine members appointed by the Governor. The director, in consultation with the State Historic Preservation Officer, shall submit to the Governor a list of persons to be considered for vacant positions on the commission.

(b) (1) Five members shall be recognized professionals in one of each of the following disciplines: history, prehistoric archaeology, historic archaeology, architectural history, and architecture. However, one individual may represent both disciplines of architecture and architectural history and one individual may represent both disciplines of prehistoric archaeology and historic archaeology.

(2) One member shall be knowledgeable in ethnic history.

(3) One member shall be knowledgeable in folklife.

(4) Two members shall represent the public or possess expertise in fields of expertise the Governor deems necessary or desirable to enable the commission to carry out its responsibilities.

(c) Members shall hold office for a term of four years.

(d) Members of the commission on January 1, 1985, shall not be disqualified from serving the remainder of their existing term by reason of the requirements of subdivision (b). However, appointments made to the commission on and after January 1, 1985, shall be made so that the requirements of paragraph (1) of subdivision (b) are satisfied at the earliest possible time.

SEC. 3. Section 5020.3 of the Public Resources Code is amended to read:

5020.3. (a) The commission shall meet at least four times per year in places it deems necessary to fulfill its responsibilities. Five members of the commission constitute a quorum.

(b) The commission shall elect annually from its members a chairman and vice chairman.

(c) The members of the commission shall serve without compensation, but shall be reimbursed for all necessary expenses actually incurred in the performance of their duties, including necessary travel expenses.

SEC. 4. Section 5020.4 of the Public Resources Code is amended to read:

5020.4. The commission shall do all of the following:

(a) Receive and evaluate applications for, and make recommendations with respect to entries on, the National Register of Historic Places to the State Historic Preservation Officer.

(b) Conduct a statewide inventory and maintain comprehensive records of historical resources pursuant to federal and state law, including, but not limited to, historical landmarks and points of historical interest.

(c) Establish criteria for the recording and preservation of historical resources, and for deletions from historical registers warranted by destruction or damage of an historical resource or other change in conditions.

(d) Develop and adopt criteria for the rehabilitation of historic structures.

(e) Establish policies and guidelines in compliance with state and federal requirements for a comprehensive statewide historical resources plan which includes, but is not limited to, architecture, history, archaeology, and folklife.

(f) Develop and update annually, based upon public hearings and active public participation, the statewide historical resources plan.

(g) Make recommendations to the department, based upon the statewide historical resources plan, including the listing of historical resource projects on a priority basis.

(h) Develop criteria and procedures for a California Register of Historical Resources to be proposed for enactment by the Legislature and report its findings and recommendations to the Legislature on or before December 1, 1985.

(i) Recommend to the department the criteria and standards for acceptance of historical buildings, structures, sites, or places for registration as historical landmarks or points of historical interest.

(j) Receive and evaluate applications for registration of structures, sites, or places as historical landmarks or points of historical interest. The commission shall select and designate landmarks and points of historical interest that it determines meet the criteria in subdivision (a) of Section 5031. The commission shall maintain a register which identifies historical landmarks and points of historical interest by number and description.

(k) Make recommendations to the department with respect to a standard design and detail for the marker or plaque which may be erected or raised at registered historical landmarks, and with respect to the use of the marker or plaque.

(*l*) Recommend to the department the type of directional sign to be erected in connection with the registration of a point of historical interest.

(m) Submit an annual report in January to the director and the Legislature giving an account of its activities, identifying unattained goals of historical resources plans and programs, and recommending needed legislation for the support of those programs. The director shall advise the commission of new and continuing plans, policy, and programs concerning statewide historic resources and shall receive

and consider the views of the commission.

(n) Consult with, and consider the recommendation of, public agencies, civic groups, and citizens interested in historic preservations.

(o) Develop criteria and procedures based upon public hearings and active public participation for the selection of projects to be funded through the National Historic Preservation Fund and other federal and state grant-in-aid programs which have as their primary purpose the preservation and enhancement of historical resources.

(p) Prepare, or cause to be prepared, and recommend to the director a budget with respect to those duties and responsibilities of the commission contained in this section.

SEC. 5. Section 5020.6 is added to the Public Resources Code, to read:

5020.6. (a) The Governor shall appoint the State Historic Preservation Officer. The director, in consultation with the commission, shall submit to the Governor a list of persons to be considered for the position. The person appointed shall be knowledgeable about historical resources.

(b) The officer shall serve as the executive secretary of the commission and shall be the chief administrative officer of the Office of Historic Preservation in the department.

(c) The officer shall have no responsibilities other than those provided by statute, executive order, and regulation, as well as any other duties the director assigns for the preservation and enhancement of the state's historical resources.

SEC. 6. Section 5024.6 is added to the Public Resources Code, to read:

5024.6. There is in the department the State Office of Historic Preservation, which is under the direction of the officer and shall do all of the following:

(a) Serve as the staff of the commission in carrying out its responsibilities, and as the staff of the officer in carrying out the responsibilities of that position.

(b) Recommend properties of historical significance for nomination by the commission for the National Register of Historic Places and for registration as historical landmarks and points of historical interest.

(c) Administer state and federal incentive programs for the preservation of historical resources.

(d) Provide information on federal and state benefits for preservation projects and enhancement of historical resources.

(e) Administer grant programs to survey historical resources and assist the development of these resources.

(f) Assist other state agencies by providing information and education on the economic and social benefits of utilizing historical resources.

(g) Provide public education and information on the preservation and enhancement of historical resources.

(h) Provide information and technical assistance to local, state, and national organizations to promote preservation and enhancement of historical resources by developing model ordinances, financial mechanisms, educational programs, conferences, workshops, and other materials.

(i) Cooperate with cultural and ethnic commissions, such as the Native American Heritage Commission, or other organizations or representatives when projects involve these groups' concerns.

(j) Review and comment on the impact on historical resources of publicly funded projects and programs undertaken by other governmental agencies.

SEC. 7. Nothing in this act shall be construed to change the provisions of Section 21083.2 of the Public Resources Code as added by Chapter 1623 of 1982.

CHAPTER 1290

An act to amend Section 597.5 of the Penal Code, relating to fighting dogs.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

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

SECTION 1. Section 597.5 of the Penal Code is amended to read:

597.5. (a) Any person who does any of the following is guilty of a misdemeanor and is punishable by imprisonment in a county jail not to exceed one year, or by a fine not to exceed fifty thousand dollars ($50,000), or by both a fine and imprisonment:

(1) Owns, possesses, keeps, or trains any dog, with the intent that the dog shall be engaged in an exhibition of fighting with another dog.

(2) For amusement or gain, causes any dog to fight with another dog, or causes any dogs to injure each other.

(3) Sells any dog which has been trained with the intent that the dog shall be engaged in an exhibition of fighting with another dog.

(4) Acts as a referee for an exhibition dog fight.

(5) Permits any act in violation of paragraph (1), (2), (3), or (4) to be done on any premises under his or her charge or control, or aids or abets any such act.

(b) Any person found guilty of a second offense of being engaged in the training of dogs to fight, or causing dogs to fight, or causing any dogs to injure each other shall be imprisoned in a state prison for one year, 18 months, or 2 years, or in a county jail not to exceed one year, and shall pay a fine not to exceed fifty thousand dollars ($50,000). Probation shall not be granted to, nor shall the execution or imposition of the sentence be suspended for, any person found

guilty of a second offense of paragraph (1), (2), (3), or (4) of subdivision (a), except in unusual cases where the interests of justice would best be served if the person is granted probation.

(c) Any person who is knowingly present, as a spectator, at any place, building, or tenement where preparations are being made for an exhibition of the fighting of dogs, with the intent to be present at those preparations, or is knowingly present at that exhibition or at any other fighting or injuring as described in paragraph (2) of subdivision (a), with the intent to be present at that exhibition, fighting, or injuring, is guilty of a misdemeanor.

(d) In every case where a person is convicted of a violation of this section and is granted probation, the court shall require, as a condition of probation, that the person not own or be in control of a dog.

(e) The court shall order the denial or suspension of a business license to own or manage a kennel, for a period of one year from the date of conviction, for any person convicted of violating this section.

(f) Nothing in this section shall prohibit any of the following:

(1) The use of dogs in the management of livestock, as defined by Section 14205 of the Food and Agricultural Code, by the owner of the livestock or his or her employees or agents or other persons in lawful custody thereof.

(2) The use of dogs in hunting as permitted by the Fish and Game Code, including, but not limited to, Sections 3286, 3509, 3510, 4002, and 4756, and by the rules and regulations of the Fish and Game Commission.

(3) The training of dogs or the use of equipment in the training of dogs for any purpose not prohibited by law.

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

CHAPTER 1291

An act to add Section 53586 to the Government Code, to amend Section 33320.1 of, and to add Section 33320.3 to, the Health and Safety Code, relating to community redevelopment agencies.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984]

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

SECTION 1. Section 53586 is added to the Government Code, to read:

53586. Notwithstanding Section 53583, the outstanding bonds of the project areas of the redevelopment agency of the City of San Bernardino, which were merged into one and designated Central City by Chapter 1227 of the Statutes of 1983, may be refunded on the first date on which the bonds may legally be called, or on any date or dates thereafter, or at the maturity date or dates of the outstanding bonds without regard to the dates on which the outstanding bonds may legally be called.

Nothing in this section shall be construed as modifying the requirements for low- and moderate-income housing set forth in Section 33471.5 of the Health and Safety Code.

SEC. 2. Section 33320.1 of the Health and Safety Code is amended to read:

33320.1. "Project area" means, except as provided in Section 33320.2 or 33320.3, a predominantly urbanized area of a community which is a blighted area, the redevelopment of which is necessary to effectuate the public purposes declared in this part, and which is selected by the planning commission pursuant to Section 33322.

As used in this section, "predominantly urbanized" means that not less than 80 percent of the privately owned property in the project area has been or is developed for urban uses, is characterized by the conditions described in subdivisions (a) or (b) of Section 33032, or is an integral part of an area developed for urban uses. For the purposes of this section, a parcel of property as shown on the official maps of the county assessor is developed if that parcel is developed in a manner which is either consistent with zoning or is otherwise permitted under law. For the purposes of this section, if property is acquired by the community less than 180 days prior to the date of adoption of the survey area resolution and is not dedicated or devoted to a public use on the date the survey area resolution is adopted, that property shall be deemed privately owned property.

The requirement that a project be predominantly urbanized shall apply only to a project area for which a final redevelopment plan is adopted on or after January 1, 1984, or to an area which is added to a project area by an amendment to a redevelopment plan, which amendment is adopted on or after January 1, 1984.

SEC. 3. Section 33320.3 is added to the Health and Safety Code, to read:

33320.3. (a) The area included within a project and a project area may be either contiguous or noncontiguous. All noncontiguous areas of a project area shall be either blighted or necessary for effective redevelopment. An unblighted, noncontiguous area within the City of Victorville which is a part of a freeway interchange project that is included in the State Transportation Improvement Program, as adopted by the California Transportation Commission in

June 1984, and an unblighted area contiguous to that freeway interchange project east of Armagosa, north of Seneca Road, west of Seventh Street, and South of Plaza Drive and Mohave Drive, excluding any subdivided and developed area, shall be conclusively deemed necessary for effective redevelopment and may be included within a noncontiguous project area by the redevelopment agency in the City of Victorville.

(b) The redevelopment agency shall not use the power of eminent domain for acquisition of property, other than vacant land, in noncontiguous, unblighted areas.

(c) This section shall only apply to a redevelopment project area and the redevelopment agency within the City of Victorville.

SEC. 4. The Legislature finds and declares that a general statute, within the meaning of Section 16 of Article IV of the California Constitution, cannot be made applicable to the unique problems within the City of Victorville that this act is intended to remedy, and that, therefore, this special statute is necessary.

CHAPTER 1292

An act to amend Section 255.5 of, and to add Section 255.6 to, the Health and Safety Code, relating to children's services.

[Approved by Governor September 18, 1984 Filed with Secretary of State September 19, 1984]

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

SECTION 1. Section 255.5 of the Health and Safety Code is amended to read:

255.5. The department and designated agencies shall not deny eligibility or aid under the California Children's Services Program because an otherwise eligible person is receiving treatment services under a teaching program at an accredited medical school facility or accredited school or college of podiatric medicine, whether or not all or part of such treatment services are performed by the staff at the facility, school, or college, provided that treatment services at the facility, school, or college are under the general supervision of a California Children's Services Program panel physician and surgeon, including a family physician, and podiatrist.

SEC. 2. Section 255.6 is added to the Health and Safety Code, to read:

255.6. Panel members as set forth in Section 255.5 shall be board-certified and have expertise in the care of children.

CHAPTER 1293

An act to amend Section 31663.25 of, and to add Sections 20930.11, 31648.3, and 31663.26 to, the Government Code, relating to public retirement systems.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

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

SECTION 1. Section 20930.11 is added to the Government Code, to read:

20930.11. "Public service," with respect to a local member who is a full-time employee, also means any time on or after January 1, 1984, but not to exceed 12 months, during which the local member is laid off. The service credit provided by this section shall not exceed one year and shall be provided to any person who: (1) returns within 12 months of the date of layoff to full-time employment under the procedures of the employer for returning laid-off employees to work; (2) elects to purchase the public service credit within three years of return to work; and (3) redeposits any contributions which had been withdrawn at the commencement of, or during, the period of the layoff.

This section shall not apply to any contracting agency nor to the employees of a contracting agency unless and until the agency elects to be subject to this section by contract or by amendment to its contract made in the manner prescribed for approval of contracts.

SEC. 2. Section 31648.3 is added to the Government Code, to read:

31648.3. A member who is a full-time employee and returns within 12 months of the date of layoff to full-time service following a period of layoff commencing on or after January 1, 1984, but not to exceed 12 months, may receive service credit for the period of the absence, but not to exceed one year, upon the payment of the contributions that the member would have paid during that period, together with the interest that the contributions would have earned had they been on deposit, if the member was not absent. The contributions may be paid in lump sum or may be paid on a monthly basis for a period of not more than the length of the period for which service credit is claimed. The service credit provided by this section shall be provided only to persons who have returned to employment under the procedures of the employer for returning laid-off employees to work and shall not exceed one year of service credit. The decision of the member to redeposit withdrawn contributions shall be made within five years from the date the member is rehired. Upon completion of the redeposit with interest, the entry age of the member shall be adjusted to the original age of entry and membership is reestablished to that date.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by a majority vote, make this section applicable in the county.

SEC. 3. Section 31663.25 of the Government Code is amended to read:

31663.25. Except as provided in Section 31633.26, any safety member who has reached the compulsory age of retirement or any safety member who has completed 10 years of continuous service and who has reached the age of 50, or any member who has completed 20 years of service regardless of age, may be retired upon filing with the board a written application setting forth the date upon which he desires his retirement to become effective which shall be not more than 60 days after the date of filing the application.

The provisions of this section shall supersede the provisions of Section 31663.2.

SEC. 4. Section 31663.26 is added to the Government Code, to read:

31663.26. Notwithstanding Section 31663.25, any safety member who has reached the compulsory age of retirement or any safety member who is a full-time employee, has completed 10 years of service, has reached the age of 50, and has no service break which exceeds 12 months, or any member who has completed 20 years of service regardless of age, may be retired upon filing with the board a written application setting forth the date upon which he desires his retirement to become effective which shall be not more than 60 days after the date of filing the application.

The provisions of this section shall supersede the provisions of Section 31663.2.

This section shall not be operative in any county until such time as the board of supervisors shall, by ordinance, make this section applicable in the county.

SEC. 5. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, Sections 2, 3, and 4 of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

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

CHAPTER 1294

An act to amend Sections 65081 and 65082 of the Government Code, and to amend Sections 2383 and 2386 of, and to add Sections 156.7 and 157.5 to, the Streets and Highways Code, relating to transportation.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

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

SECTION 1. Section 65081 of the Government Code is amended to read:

65081. The regional transportation plan shall include:

(a) A policy element that considers important transportation issues and describes the desired short- and long-range transportation goals, and pragmatic objective and policy statements. The objective and policy statements shall consider probable funding constraints.

(b) An action element that describes the programs and actions necessary to implement the plan and assigns implementation responsibilities. In urbanized areas over 50,000 population, the action element shall include a transportation system management element that describes how the region intends to improve the people and goods movement capability of its existing transportation system through appropriate management techniques. The action element shall also include a program for developing intracity and intercity bicycle programs.

(c) A financial element that summarizes the cost of plan implementation, compares these costs to a realistic projection of available revenues, and includes estimates of expected surplus and deficits. It shall contain recommendations for the allocation of funds and for the development of new sources of revenues if needed.

SEC. 2. Section 65082 of the Government Code is amended to read:

65082. A regional transportation improvement program shall be prepared, adopted, submitted and annually updated pursuant to Sections 65080 and 65080.5 to include:

(a) Projects proposed to be funded, in whole or part, from the State Highway Account in the State Transportation Fund during the succeeding five years within the following program categories: (1) new facilities, including bicycle projects, (2) operational improvements, and (3) local assistance. Major projects shall be listed by relative priority.

(b) Projects and programs proposed to be funded, in whole or part, by funds subject to allocation by the California Transportation Commission during the succeeding five years other than funds in the State Highway Account.

Projects for maintenance, rehabilitation, and reconstruction shall

not be included in the regional transportation improvement program.

The regional transportation improvement programs shall be consistent with guidelines established by the commission pursuant to Section 14532 and may not exceed, for local assistance projects, by more than 25 percent, the estimate of funds for those projects provided by the commission pursuant to Section 14525, except as provided in Section 14527. The regional transportation improvement program may be used to meet federal planning requirements where appropriate.

SEC. 3. Section 156.7 is added to the Streets and Highways Code, to read:

156.7. Prior to December 31 of each year, the department shall prepare and submit an annual report to the Legislature summarizing programs it has undertaken for the development of nonmotorized transportation facilities, including a summary of major and minor projects. The report shall also summarize the existing directives received by the department from the Federal Highway Administration concerning the availability of federal funds for the programs, together with an estimate of the fiscal impact of the federal participation in the programs.

SEC. 4. Section 157.5 is added to the Streets and Highways Code, to read:

157.5. In the event the state is unable to match all federal highway funds available to it, the department shall apply for all available federal funds which would benefit bicycle programs and facilities.

SEC. 5. Section 2383 of the Streets and Highways Code is amended to read:

2383. The department shall allocate and disburse moneys from the Bicycle Lane Account according to the following priorities:

(a) To the department, the amounts necessary to administer the provisions of this chapter.

(b) To cities and counties, for bikeways and related facilities, planning, and safety and education, in accordance with the priorities specified in Section 2386. To be eligible for funding, the bikeways shall be approximately parallel to state, county, or city roadways, where the separation of bicycle traffic from motor vehicle traffic will increase the traffic capacity of the roadway.

SEC. 6. Section 2386 of the Streets and Highways Code is amended to read:

2386. The department shall allocate and disburse moneys from the Bikeway Account for projects that serve the functional needs of commuting bicyclists, including, but not limited to, the following:

(a) New bikeways serving major transportation corridors.

(b) New bikeways removing travel barriers to potential bicycle commuters.

(c) Secure bicycle parking at employment centers, park-and-ride lots, and transit terminals.

(d) Bicycle-carrying facilities on public transit vehicles.

(e) Installation of traffic control devices to improve the safety and efficiency of bicycle travel.

(f) The elimination of hazardous conditions on existing bikeways serving a utility purpose.

(g) Planning.

(h) Safety and education.

In selecting projects to be funded, due consideration shall be given to the relative cost-effectiveness of proposed projects. All bikeways projects shall comply with minimum safety design criteria and uniform specifications and symbols for signs, markers, and traffic control devices established by the department.

CHAPTER 1295

An act to amend Section 11019.5 of the Government Code, relating to public funds.

[Approved by Governor September 19, 1984. Filed with Secretary of State September 20, 1984.]

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

SECTION 1. Section 11019.5 of the Government Code is amended to read:

11019.5. (a) Notwithstanding any other provision of law, but to the extent consistent with applicable federal law or regulation, any state department specified in subdivision (b), after receiving a request by a board of supervisors of an affected county which has a population of 150,000 or less as of January 1, 1985, and upon determining that advance payment is essential to the effective implementation of a particular program, and, further, to the extent that funds are available, and not more frequently than once each month, may advance to the county an amount not to exceed one-twelfth of the annual allocations, subventions, or reimbursements required for the delivery of services by a county.

(b) This section shall apply to the State Department of Corrections, the State Department of Health Services, and the State Department of Mental Health.

(c) The director of each department specified in subdivision (b) shall promulgate regulations and a plan to establish control procedures to define the scope of operational information required from a county in order to guarantee advance payments pursuant to this section. No county may receive an advance payment unless the county has complied with the provisions of the department's plan and regulations. Each department plan shall be approved by the Department of Finance prior to its implementation.

(d) Claim schedules for advance payments shall be presented to

the appropriate department in the manner prescribed by the department. Payment of claims shall be made within 60 days after a claim is received by the department.

(e) Each department specified in subdivision (b) shall review periodically and adjust advances to actual expenditures for the claim period. Additionally, each department shall take into consideration the timing of the implementation of new programs in the computation of advances. The authority contained in this chapter shall not supersede or limit any other provision of law authorizing the state to conduct required audits of claims transactions.

(f) A county, upon determining that an advance payment is essential for the effective implementation of a particular program, and to the extent funds are available, and not more frequently than once each month, may advance to other affected local public agencies located within its jurisdiction (i.e., school districts, special districts, cities, etc.) an amount not to exceed one-twelfth of the annual allocations, reimbursements or subventions required for the delivery of services pursuant to related state and federal laws.

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

SEC. 2. Section 11019.5 of the Government Code is amended to read:

11019.5. (a) Notwithstanding any other provision of law, but to the extent consistent with applicable federal law or regulation, any state department specified in subdivision (b), after receiving a request by a board of supervisors of an affected county which has a population of 150,000 or less as of January 1, 1985, and upon determining that advance payment is essential to the effective implementation of a particular program, and, further, to the extent that funds are available, and not more frequently than once each month, may advance to the county an amount not to exceed one-twelfth of the annual allocations, subventions, or reimbursements required for the delivery of services by a county.

(b) This section shall apply to the State Department of Corrections, the State Department of Health Services, and the State Department of Mental Health. This section shall also apply to claims presented to the Controller pursuant to Sections 4700.1 and 4700.2 of the Penal Code.

(c) The director of each department specified in subdivision (b) shall promulgate regulations and a plan to establish control procedures to define the scope of operational information required from a county in order to guarantee advance payments pursuant to this section. No county may receive an advance payment unless the county has complied with the provisions of the department's plan and regulations. Each department plan shall be approved by the Department of Finance prior to its implementation.

(d) Claim schedules for advance payments shall be presented to the appropriate department in the manner prescribed by the

department. Payment of claims shall be made within 60 days after a claim is received by the department.

(e) Each department specified in subdivision (b) shall review periodically and adjust advances to actual expenditures for the claim period. Additionally, each department shall take into consideration the timing of the implementation of new programs in the computation of advances. The authority contained in this chapter shall not supersede or limit any other provision of law authorizing the state to conduct required audits of claims transactions.

(f) A county, upon determining that an advance payment is essential for the effective implementation of a particular program, and to the extent funds are available, and not more frequently than once each month, may advance to other affected local public agencies located within its jurisdiction (i.e., school districts, special districts, cities, etc.) an amount not to exceed one-twelfth of the annual allocations, reimbursements or subventions required for the delivery of services pursuant to related state and federal laws.

SEC. 3. Section 2 of this bill incorporates amendments to Section 11019.5 of the Government Code proposed by this bill, AB 2776, and SB 1598. It shall only become operative if (1) this bill and either AB 2776 or SB 1598 are enacted and become effective January 1, 1985, (2) this bill and either AB 2776 or SB 1598 amend Section 11019.5 of the Government Code, and (3) this bill is enacted after AB 2776 or SB 1598, in which case Section 1 of this bill shall not become operative.

CHAPTER 1296

An act to amend Sections 1027.5 and 1253.3 of, and to add Section 1027.6 to, the Unemployment Insurance Code, relating to unemployment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1984. Filed with Secretary of State September 20, 1984.]

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

SECTION 1. Section 1027.5 of the Unemployment Insurance Code is amended to read:

1027.5. On the computation date each year, the amount each employer's net balance of reserve is more negative than 21 percent of the employer's average base payroll shall be canceled from his or her reserve balance.

SEC. 2. Section 1027.6 is added to the Unemployment Insurance Code, to read:

1027.6. On the computation date of June 30, 1983, the amount each employer's net balance of reserve was more negative than 12 percent of the employer's average base payroll shall be canceled

from his or her reserve balance.

SEC. 3. Section 1253.3 of the Unemployment Insurance Code is amended to read:

1253.3. (a) Notwithstanding any other provision of this division, unemployment compensation benefits, extended duration benefits, and federal-state extended benefits are payable on the basis of service to which Section 3309(a)(1) of the Internal Revenue Code of 1954 applies, in the same amount, on the same terms, and subject to the same conditions as such benefits payable on the basis of other service subject to this division, except as provided by this section.

(b) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, or of any federally operated school, with respect to service in an instructional, research, or principal administrative capacity for an educational institution shall not be payable to any individual with respect to any week which begins during the period between two successive academic years or terms or, when an agreement provides instead for a similar period between two regular but not successive terms, during that period, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual performs services in the first of the academic years or terms and if there is a contract or a reasonable assurance that the individual will perform services for any educational institution in the second of the academic years or terms.

(c) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, or of any federally operated school, with respect to service in any other capacity than specified in subdivision (b) for an educational institution shall not be payable to any individual with respect to any week which commences during a period between two successive academic years or terms if the individual performs the service in the first of the academic years or terms and there is a reasonable assurance that the individual will perform the service in the second of the academic years or terms. However, if the individual was not offered an opportunity to perform the services for an educational institution for the second of the academic years or terms, the individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this subdivision. Retroactive benefits shall be claimed in accordance with the department's procedures which shall specify that except where the individual was entitled to benefits based on services performed for other than an educational institution, an individual who has a reasonable assurance of reemployment may satisfy the search for work requirement of subdivision (e) of Section 1253, by registering for work pursuant to subdivision (b) of Section 1253 during the period between the first and second academic terms or years. A claim for retroactive benefits may be made no later than 30 days following the commencement of

the second academic year or term.

(d) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, or of any federally operated school, with respect to services specified by subdivision (b) or (c), shall not be payable to any individual with respect to any week which commences during an established and customary vacation period or holiday recess if the individual performs the services in the period immediately before the vacation period or holiday recess, and there is a reasonable assurance that the individual will perform the services in the period immediately following the vacation period or holiday recess.

(e) With respect to any services specified by subdivision (b) or (c), compensation payable on the basis of services in any such capacity may be denied as specified in subdivision (b), (c), or (d) to any individual who performed the services in an educational institution while in the employ of an educational service agency, and for this purpose the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing the services to one or more educational institutions.

(f) For purposes of this section, "reasonable assurance" includes, but is not limited to, an offer of employment made by the educational institution, provided that the offer is not contingent on enrollment, funding, or program changes.

(g) For purposes of this section, if the time for service performed during the period of and pursuant to any contract for any academic year or term by an individual for any employing unit as specified in subdivision (b) or (c) constitutes one-half or more of the time in total service performed for the employing unit by the individual during that same period for remuneration, all the services of the individual for the employing unit for that period shall be deemed subject to the benefit payment restriction provisions of this section.

(h) Subdivisions (b), (c), and (d) shall not apply to nonprofessional workers employed by the Fremont or Riverside campus of the California School for the Deaf, the Fremont campus of the California School for the Blind, or the diagnostic schools for the neurologically handicapped located in Los Angeles, San Francisco, and Fresno. These nonprofessional workers are not defined as school employees.

(i) Any public entity as defined by Section 605, with respect to any individual performing a service in any other capacity other than specified in subdivision (b) for an educational institution, shall provide the following in writing to the individual no later than 30 days before the end of the first of the academic year or term.

A statement which indicates the following:

(1) Whether or not there is a reasonable assurance of reemployment.

(2) Whether or not it is stated that the individual has no

reasonable assurance of reemployment, that the individual should file a claim for benefits at the close of the academic year or term.

(3) If it is stated that the individual has reasonable assurance of reemployment, the written statement shall also inform the employee that he or she may file a claim for benefits and that the determination for eligibility for benefits is made by the Employment Development Department and not by the employer.

(4) If it is stated that the individual has reasonable assurance of reemployment, that the individual shall be entitled to a retroactive payment of benefits if the individual is not offered an opportunity to perform the services for the educational institution for the second of the academic years or terms, if the individual is otherwise eligible and he or she filed a claim for each week benefits are claimed, and if a claim for retroactive benefits is made no later than 30 days following the commencement of the second academic year or term.

SEC. 4. Section 1253.3 of the Unemployment Insurance Code is amended to read:

1253.3. (a) Notwithstanding any other provision of this division, unemployment compensation benefits, extended duration benefits, and federal-state extended benefits are payable on the basis of service to which Section 3309(a) (1) of the Internal Revenue Code of 1954 applies, in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other service subject to this division, except as provided by this section.

(b) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, or of any federally operated school, with respect to service in an instructional, research, or principal administrative capacity for an educational institution are not be payable to any individual with respect to any week which begins during the period between two successive academic years or terms or, when an agreement provides instead for a similar period between two regular but not successive terms, during that period, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual performs services in the first of the academic years or terms and if there is a contract or a reasonable assurance that the individual will perform services for any educational institution in the second of the academic years or terms.

(c) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, or of any federally operated school, with respect to service in any other capacity than specified in subdivision (b) for an educational institution shall not be payable to any individual with respect to any week which commences during a period between two successive academic years or terms if the individual performs the service in the first of the academic years or terms and there is a reasonable assurance that the individual will perform the service in the second of the academic years or terms, . However, if the individual was not offered an opportunity to perform

the services for an educational institution for the second of the academic years or terms, the individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this subdivision. Retroactive benefits shall be claimed in accordance with the department's procedures which shall specify that except where the individual was entitled to benefits based on services performed for other than an educational institution, an individual who has a reasonable assurance of reemployment may satisfy the search for work requirement of subdivision (e) of Section 1253, by registering for work pursuant to subdivision (b) of Section 1253 during the period between the first and second academic terms or years. A claim for retroactive benefits may be made no later than 30 days following the commencement of the second academic year or term.

(d) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, or of any federally operated school, with respect to services specified by subdivision (b) or (c), are not payable to any individual with respect to any week which commences during an established and customary vacation period or holiday recess if the individual performs the services in the period immediately before the vacation period or holiday recess, and there is a reasonable assurance that the individual will perform the services in the period immediately following the vacation period or holiday recess.

(e) With respect to any services specified by subdivision (b) or (c), compensation payable on the basis of services in any such capacity may be denied as specified in subdivision (b), (c), or (d) to any individual who performed the services in an educational institution while in the employ of an educational service agency, and for this purpose the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing the services to one or more educational institutions.

(f) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, are not payable during the periods of time, and subject to the same conditions, contained in subdivisions (b), (c), (d), and (h), if the services are provided to, or on behalf of, an educational institution.

(g) For purposes of this section, "reasonable assurance" includes, but is not limited to, an offer of employment made by the educational institution, provided that the offer is not contingent on enrollment, funding, or program changes.

(h) For purposes of this section, if the time for service performed during the period of and pursuant to any contract for any academic year or term by an individual for any employing unit as specified in subdivision (b) or (c) constitutes one-half or more of the time in total

service performed for the employing unit by the individual during that same period for remuneration, all the services of the individual for the employing unit for that period shall be deemed subject to the benefit payment restriction provisions of this section.

(i) Subdivisions (b), (c), (d), and (f) do not apply to nonprofessional workers employed by the Fremont or Riverside campus of the California School for the Deaf, the Fremont campus of the California School for the Blind, or the diagnostic schools for the neurologically handicapped located in Los Angeles, San Francisco, and Fresno. These nonprofessional workers are not defined as school employees.

(j) Any public entity as defined by Section 605, with respect to any individual performing a service in any other capacity other than specified in subdivision (b) for an educational institution, shall provide the following in writing to the individual no later than 30 days before the end of the first of the academic year or term.

A statement which indicates the following:

(1) Whether or not there is a reasonable assurance of reemployment.

(2) Whether or not it is stated that the individual has no reasonable assurance of reemployment, that the individual should file a claim for benefits at the close of the academic year or term.

(3) If it is stated that the individual has reasonable assurance of reemployment, the written statement shall also inform the employee that he or she may file a claim for benefits and that the determination for eligibility for benefits is made by the Employment Development Department and not by the employer.

(4) If it is stated that the individual has reasonable assurance of reemployment, that the individual shall be entitled to a retroactive payment of benefits if the individual is not offered an opportunity to perform the services for the educational institution for the second of the academic years or terms, if the individual is otherwise eligible and he or she filed a claim for each week benefits are claimed, and if a claim for retroactive benefits is made no later than 30 days following the commencement of the second academic year or term.

SEC. 5. Section 4 of this bill incorporates amendments to Section 1253.3 of the Unemployment Insurance Code proposed by both this bill and AB 3899. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, but this bill becomes operative first, (2) each bill amends Section 1253.3 of the Unemployment Insurance Code, and (3) this bill is enacted after AB 3899, in which case Section 1253.3 of the Unemployment Insurance Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 3899, at which time Section 4 of this bill shall become operative.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Unless California enacts this act, California's unemployment insurance program will be out of conformity with the mandates of federal law under Public Law 98-21 and Public Law 97-248. This would seriously disrupt California's economy by the imposition of burdensome federal taxes on California employers and imperil the payment of unemployment benefits by the denial of federal funds to pay for the administration of the payment of such benefits to unemployed claimants in California. In order to preserve California's unemployment insurance system and assure uninterrupted payment of unemployment benefits in the interest of the public peace, health, or safety, it is necessary that this act take effect immediately.

CHAPTER 1297

An act to amend Sections 776, 777, 778, and 4582 of the Public Resources Code, relating to forest practices.

[Approved by Governor September 19, 1984. Filed with Secretary of State September 20, 1984.]

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

SECTION 1. Section 776 of the Public Resources Code is amended to read:

776. Any accusation against a registrant or a certificant shall be filed within five years after the act or omission alleged as the ground for disciplinary action. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and the board has all the powers granted in that chapter.

SEC. 2. Section 777 of the Public Resources Code is amended to read:

777. If the board finds against the registrant or certificant, the board, in its decision, may do any of the following:

(a) Provide for the immediate complete suspension by the registrant or certificant of all operations as a professional forester during the period fixed by the decision.

(b) Permit the registrant or certificant to complete any or all contracts shown by competent evidence taken at the hearing to be then uncompleted.

(c) Impose upon the registrant or certificant compliance with such specific conditions as may be just in connection with his or her operations as a professional forester, and may further provide that, until the conditions are complied with, no application for restoration of the suspended or revoked registration or certification shall be accepted by the board. The board shall provide public notice of the suspension or revocation of a registration or certification pursuant to this section.

SEC. 3. Section 778 of the Public Resources Code is amended to read:

778. A registrant or certificant is subject to disciplinary action who:

(a) Has been convicted of a felony substantially related to the qualifications, functions, or duties of a registered professional forester. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code.

(b) Has been found guilty by the board of any deceit, misrepresentation, fraud, material misstatement of fact, incompetence, or gross negligence in his or her practice.

(c) Has been guilty of any fraud or deceit in obtaining his or her registration or certification.

(d) Aids or abets any person in the violation of any provision of this article.

(e) Fails in any material respect to comply with the provisions of this article.

SEC. 4. Section 4582 of the Public Resources Code is amended to read:

4582. The timber harvesting plan shall be filed with the department in writing by a person who owns, leases, or otherwise controls or operates on all or any portion of any timberland and who plans to harvest the timber thereon. If the person who files the plan is not the owner of the timberland, the person filing the plan shall notify the timberland owner by certified mail that the plan has been submitted and shall certify that mailing to the department. The plan shall be a public record and shall include all of the following information:

(a) The name and address of the timber owner.

(b) The name and address of the timber operator.

(c) A description of the land on which the work is proposed to be done, including a United States Geological Survey quadrangle map or equivalent indicating the location of all streams, the location of all proposed and existing logging truck roads, and indicating boundaries of all site I classification timberlands to be stocked in accordance with subdivision (b) of Section 4561 and any other site classifications if the board establishes specific minimum stocking standards for other site classifications.

(d) A description of the silvicultural methods to be applied, including the type of logging equipment to be used.

(e) An outline of the methods to be used to avoid excessive accelerated erosion from timber operations to be conducted within the proximity of a stream.

(f) Special provisions, if any, to protect any unique area within the

area of timber operations.

(g) The expected dates of commencement and completion of timber operations.

(h) A certification by the registered professional forester preparing the plan that he or she or a designee has personally inspected the plan area.

(i) Any other information the board provides by regulation to meet its rules and the standards of this chapter.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1298

An act to amend Sections 2825, 2852, 2900, 2902, 2980, 3115, 8804, 8809, 10102, 10200, 10204, 10310, and 10428 of, to add Sections 2803.5, 2808.5, 2808.6, 2808.7, 8571.5, 10016, 10100.8, and 10100.9 to, to add Part 7.5 (commencing with Section 2960) to Division 4 of, to add Part 10.7 (commencing with Section 8745) to Division 10 of, to add Chapter 4.7 (commencing with Section 10360) and Chapter 8 (commencing with Section 10700) to Division 12 of, and to repeal Sections 2983, 2984, and 2985 of, the Streets and Highways Code, relating to improvement acts.

[Approved by Governor September 19, 1984. Filed with Secretary of State September 20, 1984.]

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

SECTION 1. Section 2803.5 is added to the Streets and Highways Code, to read:

2803.5. Proceedings under this division may be combined with proceedings under the Improvement Act of 1911 (Division 7 (commencing with Section 5000)) or with proceedings under the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000)) in any manner which is convenient and economical.

SEC. 2. Section 2808.5 is added to the Streets and Highways Code, to read:

2808.5. This division does not apply to proceedings commenced before or after January 1, 1985, for the construction or acquisition, or both, of facilities for the production, treatment, storage, and distribution of water, which supply potable water for domestic, municipal, commercial, or industrial use, including the acquisition of

rights-of-way and easements necessary in connection with the facilities, when the proceedings have been recommended by the health officer of the city or county in which the proceedings are instituted as necessary as a health measure, if the recommendation is submitted in writing and included in the minutes of the legislative body conducting the proceedings, and the necessity is found to exist by a resolution adopted by the affirmative vote of four-fifths of the members thereof. The findings and determinations made by the legislative body, pursuant to this section, is final and conclusive upon all persons in the absence of actual fraud.

SEC. 2.5. Section 2808.6 is added to the Streets and Highways Code, to read:

2808.6. This division does not apply to proceedings, whether commenced before or after January 1, 1985, for repairing, restoring, rebuilding, rehabilitating, or modernizing existing public facilities when there are over 12 resident voters within the area proposed to be assessed and when the engineer of the jurisdiction undertaking assessment proceedings has determined that the work is necessary for reasons of public safety or to avoid substantially larger future costs due to deterioration and obsolescence of the public facilities involved. The determination shall be given in writing and included in the minutes of the legislative body conducting the assessment proceedings, and this section shall apply only if the necessity is found to exist by resolution adopted by the affirmative vote of four-fifths of the members thereof. The findings and determinations made by the legislative body pursuant to this section shall be final and conclusive upon all persons in the absence of actual fraud.

SEC. 3. Section 2808.7 is added to the Streets and Highways Code, to read:

2808.7. This division does not apply to proceedings commenced before or after January 1, 1985, for the construction or acquisition, or both, of flood control and drainage works, including the acquisition of rights-of-way and easements necessary in connection with those improvements, if the chief engineer of a city, county, or flood control district exercising flood control powers over the majority of the area to be protected by the proposed flood control or drainage works finds the works to be necessary to protect life and property from injury and damage from flooding as a result of a 100-year design storm and that finding is made in writing and spread upon the minutes of the legislative body conducting the proceedings, and if that necessity is also found to exist by resolution adopted by the affirmative vote of four-fifths of the members thereof. The finding made by the legislative body pursuant to this section shall be final and conclusive upon all persons in the absence of actual fraud.

SEC. 4. Section 2825 of the Streets and Highways Code is amended to read:

2825. The report on the proposed improvement or acquisition shall contain all of the following information:

(a) A map, plat, or diagram showing the general nature, location,

and extent of the proposed improvement or acquisition and the lands to be assessed to pay any part of the cost thereof.

(b) The total estimated cost of the proposed improvement, stating separately the estimated cost of each class of construction proposed, such as grading, paving, curbing, and the like, and including the incidental expenses of the proceedings, the total amount of which shall also be separately stated, as well as any cost of registering bonds.

(c) The total estimated cost, including the incidental expenses of the proceedings and any cost of registering bonds, the total amount of which shall also be separately stated, of the proposed acquisition.

If the acquisition of property for more than one purpose is involved, and any of the purposes will require the acquisition of property or rights in property for which compensation is required to be made, which property or rights would not be required if that purpose were omitted, the estimated cost of the property or rights acquired for that purpose shall be separately stated.

(d) The true value of the parcels to be assessed calculated in accordance with Part 8 (commencing with Section 2980).

(e) The true value of each parcel to be assessed calculated in accordance with Part 8 (commencing with Section 2980).

(f) The amount, as near as may be determined, of the total principal sum of all unpaid special assessments and special assessments required or proposed to be levied under any completed or pending assessment proceedings, other than that contemplated in the instant proceedings, whether direct or ad valorem, upon each parcel proposed to be assessed, which would require an investigation and report under this division.

(g) The estimated amount of the assessment for the proposed acquisition or improvement to be levied upon each parcel to be assessed. If the district is to be divided into zones, the proposed zones and the percentage to be assessed against each zone shall be shown on the district map and the estimated assessment shall be proportioned, as nearly as may be, according to the zones and percentages.

(h) The number of years within which the bonds, if any, to be issued shall mature, and the number of installments of the principal of the bonds, and the interest rate or maximum interest rate at which the bonds shall be issued if no definite interest rate is to be fixed until the bonds are sold.

SEC. 5. Section 2852 of the Streets and Highways Code is amended to read:

2852. The notice of the hearing on the report shall be substantially in the following form (filling in blanks):

Notice is hereby given that land owned by you or in which you are interested is proposed to be assessed for the proposed (here briefly state in general terms what is proposed to be done, such as paving X Street between A Street and B Street). The estimated cost of the _____ (acquisition or improvement) is $_____; the assessed value of the real property within the district is $_____; the

estimated true value of parcels within the district is $_____; the estimated total amount of assessments upon parcels to be assessed for acquisitions or improvements done or previously ordered is $_____; the estimated amount of the proposed assessment upon your parcel for the proposed _____ (improvement or acquisition) is $_____. The estimated amount of the proposed assessment is approximate only, is based upon the stated estimated cost, and is not to be deemed the actual amount which will be assessed. The amount of money to be contributed towards the project by the (City or County of _____) is the sum of $_____.

A hearing will be held in the (place of hearing) by (designation of body or officer) on the _____ day of _____, 19_____, at the hour of _____ o'clock _____ m. at which time and place all protests and objections will be heard. The proceeding for the acquisition or improvement is proposed to be conducted under the (here by short title or otherwise designate act under which the project will be undertaken).

A report on the proposed project is on file in the office of the clerk of the _____ (designate the legislative body) and is open to public inspection.

_____

Clerk of (name of legislative body)

SEC. 6. Section 2900 of the Streets and Highways Code is amended to read:

2900. If the report on the proposed acquisition or improvement shows that the estimated amount proposed to be assessed upon any parcel for the proposed acquisition or improvement will exceed one-half of the true value of the parcel as set forth in the report, or shows that the total estimated cost of the proposed improvement or acquisition, less any amount to be paid towards the cost from any source other than special assessments upon the parcels benefited by the acquisition or improvement, when added to the aggregate totals of all unpaid assessments and estimated assessments, as the totals are stated in the report, will exceed in total amount one-half of the true value of all the parcels proposed to be assessed, the proposed proceeding shall be abandoned or modified so that the amount to be specially assessed for the cost of the acquisition or improvement will be less than the limits hereby established, unless the excess of the cost and indebtedness over one-half of the true value shall be paid from some source other than by special assessment on the parcels, or unless the limitation is overruled.

SEC. 7. Section 2902 of the Streets and Highways Code is amended to read:

2902. If the total cost including incidental expenses of any acquisition or improvement, less any amount to be paid toward the cost from any source other than special assessment upon the parcels benefited thereby, when added to the aggregate totals of all assessments and estimated assessments as stated in the report,

exceeds in total amount one-half of the total true value stated in the report of all the parcels to be assessed to pay any part of the cost of the acquisition or improvement, no part of the excess shall be assessed upon the parcels.

SEC. 8. Part 7.5 (commencing with Section 2960) is added to Division 4 of the Streets and Highways Code, to read:

PART 7.5. ALTERNATIVE PROCEEDINGS

2960. This part provides an alternative procedure for complying with the requirements of this division. This alternative procedure shall only be used by a legislative body undertaking assessment proceedings pursuant to the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000)), whether or not in combination with another authorized assessment bond act. If a legislative body complies with the requirements of this part, all other requirements of this division are satisfied.

2961. If a legislative body determines to proceed under this part in forming an assessment district pursuant to the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000)), it shall, in addition to complying with all requirements of that act, do all of the following:

(a) State in the resolution of intention that it adopts pursuant to Section 10200 that it intends to comply with the requirements of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 by proceeding under this part.

(b) Direct that all of the following information be included in the report prepared pursuant to Section 10204:

(1) The total amount, as near as may be determined, of the total principal sum of all unpaid special assessments and special assessments required or proposed to be levied under any completed or pending assessment proceedings, other than that contemplated in the instant proceedings, which would require an investigation and report under this division against the total area proposed to be assessed.

(2) The total true value, as near as may be determined, of the parcels of land and improvements which are proposed to be assessed. Total true value may be estimated as the full cash value of the parcels as shown upon the last equalized assessment roll of the county. Alternatively, total true value may be determined by other reasonable means, including, but not limited to, by adjusting the value shown on the last equalized assessment roll to correct for deviations from market value due to Article XIII A of the California Constitution.

(c) Include in the notice sent pursuant to Section 10307 a statement of the total principal amount of unpaid assessments already levied against all the property proposed to be assessed, as computed in the project report.

(d) Before confirming the assessment pursuant to Section 10311,

the legislative body shall find that the total amount of the principal sum of all unpaid special assessments levied against the parcels proposed to be assessed, as computed pursuant to paragraph (1) of subdivision (b), plus the principal amount of the special assessment proposed to be levied in the instant proceedings, do not exceed one-half of the total value of the parcels proposed to be assessed, as computed pursuant to paragraph (2) of subdivision (b). The finding and determination of the legislative body shall be final and conclusive in the absence of fraud.

SEC. 9. Section 2980 of the Streets and Highways Code is amended to read:

2980. (a) As used in this division, the "true value of parcels" and the "true value of each parcel" means the fair market value of the land and improvements thereon, as determined by the legislative body. The determination of the legislative body shall be final and conclusive in the absence of fraud.

(b) The legislative body may determine that the fair market value of the land and improvements is their full cash value as defined by Article XIII A of the California Constitution and as shown upon the last equalized assessment roll of the county. However, this subdivision does not prevent the legislative body from determining fair market value by other reasonable means.

SEC. 10. Section 2983 of the Streets and Highways Code is repealed.

SEC. 11. Section 2984 of the Streets and Highways Code is repealed.

SEC. 12. Section 2985 of the Streets and Highways Code is repealed.

SEC. 13. Section 3115 of the Streets and Highways Code is amended to read:

3115. (a) From the date of the recording in the office of the county recorder, or if the assessment district is located in two or more counties then from the date of the recording in the office of the county recorder where a notice is last recorded, all persons are deemed to have notice of the contents of the assessment.

(b) Immediately effective on the date of the last of the recordings, pursuant to subdivision (a), each of the assessments is a lien upon the property against which it is made. Unless sooner discharged, the lien continues for the period of 10 years from the date of the recordation or, if bonds are issued to represent the assessment, until the expiration of four years after the due date of the last installment on the bonds or of the last principal coupon attached thereto, or until four years after the due date of the last installment on any refunding bonds or of the last principal coupon attached thereto, whichever is longer.

SEC. 14. Section 8571.5 is added to the Streets and Highways Code, to read:

8571.5. The legislative body may determine that bonds issued pursuant to this division may be refunded under specified conditions

by resolution. If the legislative body determines to do so, it shall, in the resolution of intention to do the work, include all of the following:

(a) Declare that bonds proposed in the resolution may be refunded upon determination by resolution of the legislative body to do so.

(b) State conditions under which the legislative body will undertake refunding, and state a maximum interest rate and maximum number of years to maturity of the refunding bonds.

(c) State that any adjustment to assessments resulting from refunding will be done on a pro rata basis.

SEC. 15. Part 10.7 (commencing with Section 8745) is added to Division 10 of the Streets and Highways Code, to read:

PART 10.7. BOND ANTICIPATION NOTES

8745. The legislative body may, by resolution, borrow money in anticipation of the sale of bonds which have been authorized pursuant to this division, but which have not been sold and delivered, issue negotiable bond anticipation notes therefor, and renew the notes from time to time. The maximum maturity of any bond anticipation notes, including the renewals thereof, shall not exceed three years from the date of delivery of the original notes.

8745.2. The principal and interest on the bond anticipation notes may be paid from any money available for their payment. Any portion of the principal or interest which is due and payable shall be paid from the proceeds of the next sale of bonds in anticipation of which the notes were issued.

8745.4. The proceeds of bond anticipation notes issued pursuant to this part may be used for any purpose for which the bonds in anticipation of which the notes were issued may be used.

8745.6. The bond anticipation notes shall not be issued in any amount in excess of the aggregate amount of bonds which the legislative body has been authorized to issue, less the amount of any bonds of the authorized issue which have been previously sold and less the amount of other bond anticipation notes previously issued and still outstanding.

8745.8. The legislative body may provide, in its resolution authorizing the issuance of bond anticipation notes, that the note shall be subject to call and redemption prior to maturity, at the option of the legislative body, at the price or prices which are fixed in the resolution, but not to exceed a premium of 6 percent of the par value of the note subject to redemption. The resolution shall fix the method of giving notice of redemption to the holders of the notes to be redeemed and the price or prices at which the note shall be subject to redemption. Any notes that are subject to call and redemption prior to maturity shall contain a recital to that effect on their face, and no note shall be subject to call or redemption prior to its fixed maturity date unless it contains that recital.

8746. The bond anticipation notes may be issued and sold in the

same manner as the bonds.

8746.2. The bond anticipation notes and the resolution authorizing them may contain any provisions, conditions, or limitations which a resolution of the legislative body authorizing the issuance of bonds may contain.

8746.4. The legislative body shall provide a remedy in its resolution authorizing the issuance of bond anticipation notes if the anticipated bonds cannot be sold at the time or in the amount specified in the resolution or if any default occurs with respect to the notes. Any remedy which is so provided shall limit the obligations of property owners within the area subject to assessment to the amount of the assessment authorized and levied, except that the legislative body may enter into an agreement with any of the property owners within the district pledging some or all of the property of those property owners who are a party to the agreement as additional security for the notes.

SEC. 17. Section 8804 of the Streets and Highways Code is amended to read:

8804. If there are no available funds in the treasury with which to make payment of the amount of the delinquent assessment and interest for which the property was sold, the tax collector shall delay the entry of the certificate of sale until funds are available, and shall, in the meantime, make demand upon the legislative body that a suitable amount be included in the next tax levy for the purpose of providing funds with which to make the payment. However, the period of redemption from the tax sale shall not be extended thereby nor shall the rights or privileges of the property owner be in any wise affected.

This section applies only to bonds representing unpaid assessments, which assessments were confirmed before June 6, 1978.

SEC. 18. Section 8809 of the Streets and Highways Code is amended to read:

8809. The legislative body, shall, at the time of fixing the annual tax rate and levying the taxes to be collected for general city purposes, levy a special tax upon the taxable property in the city for the purpose of paying for the lands purchased or to be purchased at tax sales held under this part, and also for the purpose of paying installments of the assessment or of the interest thereon, which the city is required to pay under Section 8806, but not to exceed for each local improvement ten cents ($0.10) on each one hundred dollars ($100) of assessable property in any one year. The special tax shall be in addition to all other taxes levied for city purposes, and shall be computed, entered and collected in the same manner, and by the same persons and at the same time and with the same penalties and interest as are other taxes of the city.

This section applies only to bonds representing unpaid assessments, which assessments were confirmed before June 6, 1978.

SEC. 20. Section 10016 is added to the Streets and Highways Code, to read:

10016. Any resolution, notice, report, diagram, or assessment which is required to contain a description of the improvements, the boundaries of the assessment district or any zones therein, or the lines and dimensions of any parcel of land, may, for a full and detailed description thereof, refer to any plan or map which is on file with the clerk, the county auditor, or the county assessor and which is open to public inspection. The plan or map so referred to shall govern for all details of the description.

SEC. 21. Section 10100.8 is added to the Streets and Highways Code, to read:

10100.8. (a) Following the levy of an assessment pursuant to this division to pay, in whole or in part, the costs and expenses of constructing or substantially reconstructing works, systems, or facilities after January 1, 1985, upon a district benefited thereby, and annually on or before June 30th, the legislative body may prepare and approve an estimate of the expenditures required during the ensuing fiscal year for the maintenance, repair, and improvement of the works, systems, or facilities.

(b) The legislative body, may, by resolution adopted at a public hearing, determine to levy and collect in any year upon and against all of the taxable land and improvements within the district a special assessment sufficient to raise a sum of money not to exceed the amount estimated pursuant to subdivision (a).

(c) The special assessment shall be levied, collected, and enforced at the same time, in the same manner, by the same officers, and with the same interest and penalties, as in the case of other special assessments levied pursuant to this division by the city. The proceeds of the assessment shall be placed in a separate fund of the city and shall be expended only for the maintenance, repair, or improvement of the works, systems, or facilities.

(d) For purposes of this section, "maintenance, repair, and improvement" shall include all expenses incurred to keep the work, system, or facility in fit operating condition which are ordinarily incurred no more frequently than every five years, except that expenses which are ordinarily incurred at lesser intervals may be included if the legislative body finds that the expenses have to be incurred in order to maintain the level of benefit to the assessed parcels and that the level of benefit would otherwise decline more rapidly than usual for other public works of the type involved because of circumstances which do not ordinarily affect these public works.

SEC. 21.5. Section 10100.9 is added to the Streets and Highways Code, to read:

10100.9. Prior to any hearing pursuant to Section 10100.8, the clerk shall cause notice of the hearing to be published pursuant to Section 6066 of the Government Code.

SEC. 22. Section 10102 of the Streets and Highways Code is amended to read:

10102. Whenever the public interest or convenience requires,

the legislative body of any municipality may acquire or install any or all of the works and improvements mentioned in the Improvement Act of 1911 (Division 7 (commencing with Section 5000)), the Vehicle Parking District Law of 1943 (Part 1 (commencing with Section 31500) of Division 18), the Parking District Law of 1951 (Part 4 (commencing with Section 35100) of Division 18), the Park and Playground Act of 1909 (Chapter 7 (commencing with Section 38000) of Part 2 of Division 3 of Title 4 of the Government Code), or other works and improvements of a local nature, and acquire by gift, purchase, or eminent domain proceedings land, rights-of-way, and easements necessary for the works and improvements.

SEC. 23. Section 10200 of the Streets and Highways Code is amended to read:

10200. Before ordering any improvement which is authorized by this division to be made, the legislative body shall adopt a resolution declaring its intention to do so, briefly describing the proposed improvement, specifying the exterior boundaries of the assessment district, providing for the issuance of improvement bonds, if any bonds are to be issued, pursuant to Chapter 7 (commencing with Section 10600), declaring its intention to levy an assessment to maintain, repair, or improve the facility pursuant to Section 10100.8, if it intends to levy such an assessment, and providing for the disposal of any surplus remaining in the improvement fund after the completion of the improvement, as authorized in Section 10427. The descriptions do not need to be detailed and shall be sufficient if they enable the engineer to generally identify the nature, location, and extent of the improvements and the location and extent of the assessment district. The resolution of intention shall also contain a brief statement of the intention of the legislative body to enter into an agreement with any other public agency, or public utility, pursuant to Chapter 2 (commencing with Section 10100).

SEC. 24. Section 10204 of the Streets and Highways Code is amended to read:

10204. The report of the person or board to whom the improvement is referred by the legislative body shall contain all of the following:

(a) Plans and specifications of the proposed improvement if the improvement is not already installed. The plans and specifications do not need to be detailed and are sufficient if they show or describe the general nature, location, and extent of the improvements. If the assessment district is divided into zones, the plans and specifications shall indicate the class and the type of improvements to be provided for each zone. The plans or specifications may be prepared as separate documents, or either or both may be incorporated in the report as a combined document.

(b) A general description of works or appliances already installed and any other property necessary or convenient for the operation of the improvement, if the works, appliances, or property are to be acquired as part of the improvement.

(c) An estimate of the cost of the improvement and of the cost of lands, rights-of-way, easements, and incidental expenses in connection with the improvement, including any cost of registering bonds. If the legislative body, in the resolution of intention, ordered that private utility damages be included in the assessment, the report shall contain an estimate of the private utility damages. If the legislative body, in the resolution of intention, declared its intention to levy an assessment for the maintenance, repair, or improvement of the work, system, or facility, the report shall contain an estimate of the amount of this assessment for each of the first five years during which the assessment would be levied.

(d) A diagram showing, as they existed at the time of the passage of the resolution of intention, all of the following:

(1) The exterior boundaries of the assessment district.

(2) The boundaries of any zones within the district.

(3) The lines and dimensions of each parcel of land within the district.

Each subdivision, including each separate condominium interest, as defined in Section 783 of the Civil Code, shall be given a separate number upon the diagram. The diagram may refer to the county assessor's maps for a detailed description of the lines and dimensions of any parcels, in which case those maps shall govern for all details concerning the lines and dimensions of the parcels.

(e) A proposed assessment of the total amount of the cost and expenses of the proposed improvement upon the several subdivisions of land in the district in proportion to the estimated benefits to be received by each subdivision, respectively, from the improvement. In the case of an assessment for installation of planned local drainage facilities which are financed, in whole or in part, pursuant to Section 66483 of the Government Code, the assessment levied against each parcel of subdivided land may be levied on the basis of the proportionate storm water runoff from each parcel. When any portion or percentage of the cost and expenses of the improvement is ordered to be paid out of the treasury of the municipality, pursuant to Section 10201, the amount of that portion or percentage shall first be deducted from the total estimated cost and expenses of the improvement, and the assessment upon property proposed in the report shall include only the remainder of the estimated cost and expenses. The assessment shall refer to the subdivisions by their respective numbers as assigned pursuant to subdivision (d).

SEC. 25. Section 10310 of the Streets and Highways Code is amended to read:

10310. After the legislative body passes on the report pursuant to Section 10301, any interested person may object to the proposed improvement, the extent of the assessment district, or to the proposed assessment by filing a written protest with the clerk of the legislative body at or before the time set for the hearing. The protest shall contain a description of the property in which each signer

thereof is interested sufficient to identify the property, and, if the signers are not shown on the last equalized assessment roll as the owners of the property, the protest shall contain or be accompanied by written evidence that the signers are the owners of the property. The clerk shall endorse on each protest the date of its receipt, and, at the time appointed for the hearing, the clerk shall present to the legislative body all protests filed with him or her.

SEC. 26. Chapter 4.7 (commencing with Section 10360) is added to Division 12 of the Streets and Highways Code, to read:

CHAPTER 4.7. ALTERNATIVE PROCEDURE FOR AUTHORIZING ASSESSMENTS

10360. This chapter provides an alternative procedure for authorizing assessments pursuant to this division. It is not intended to alter or restrict authority to authorize assessments pursuant to other provisions of this division in any way. This chapter does not apply to proceedings to finance public facilities unless 80 percent or more of the district is developed for residential, commercial, or industrial use at the time that proceedings are commenced. This chapter shall not be used for the acquisition of existing works, appliances, or property except insofar as the acquisition is incidental to a proposed improvement not already installed.

10362. All provisions of this division shall apply to proceedings pursuant to this chapter, except as expressly provided in this chapter.

10364. For purposes of proceeding under this chapter, the report prepared pursuant to Section 10204 shall contain the following elements instead of those specified in Section 10204:

(a) A general description of the proposed project. Detailed plans and specifications need not be included in the report.

(b) A general description of works or appliances already installed and any other property necessary or convenient for the operation of the improvement, if the work, appliance, or property is to be acquired as part of the improvement. Acquisitions are subject to the limitation specified in Section 10360.

(c) An estimate of the costs of the improvement and of the cost of lands, rights-of-way, easements, and incidental expenses in connection with the improvement. If the legislative body, in the resolution of intention, ordered that private utility damages be included in the assessment, the report shall contain an estimate of private utility damages. In addition to the estimate of the likely cost of the project, the report shall state a maximum cost of the project and any private utility damages. If the legislative body, in the resolution of intention, declared its intention to levy an assessment for the maintenance, repair, or improvement of the work, system, or facility, the report shall contain an estimate of the amount of this assessment for each of the first five years during which the assessment would be levied.

(d) A diagram showing the assessment district and the boundaries and dimensions of the subdivisions of land within the district as they existed at the time of the passage of the resolution of intent. Each subdivision, including each separate condominium interest as defined in Section 783 of the Civil Code, shall be given a separate number upon the diagram.

(e) A proposed assessment of a percentage share of the cost and expense of the proposed improvement upon each subdivision of real property in the district in proportion to the estimated benefits to be received by those subdivisions, respectively, from the improvement. The amount of the proposed assessment against each subdivision of real property, assuming the improvement costs and expenses are the amount estimated in subdivision (c) and assuming the project costs and expenses are the maximum amount stated in subdivision (c). When any portion or percentage of the cost and expenses of the improvement is ordered to be paid out of the treasury of the municipality, pursuant to Section 10201, the amount of that portion or percentage shall first be deducted from the total estimated costs and expenses of the improvement and from the maximum costs and expenses of the project, and the assessment upon property proposed in the report shall include only the remainder of the estimated costs and expenses. The assessment shall refer to the subdivisions by their respective numbers as assigned pursuant to subdivision (d).

10366. For purposes of proceeding under this chapter, the notice shall contain the following elements instead of those specified in Section 10307:

(a) A statement of the time, place, and purpose of the hearing on the resolution of intention and report.

(b) A statement of the total estimated cost of the proposed improvement and of the maximum cost of the improvement.

(c) The estimated and maximum amounts, as shown by the report, to be assessed against the particular parcel covered by the notice.

(d) A statement that any person interested may file a protest in writing as provided in this division.

10368. For purposes of proceeding under this chapter, the assessment shall be confirmed as follows instead of the procedure specified in Section 10312.

When upon the hearing the proposal to assess is confirmed as filed, modified, or corrected by resolution, the legislative body shall order the proposed improvement to be made and declare its action upon the report and assessment. After design work and plans and specifications have been completed, and after contracts have been let pursuant to Section 10501, the legislative body shall, by resolution, fix the amount of the assessment, which shall be equal to or less than the maximum assessment stated in the report prepared pursuant to Section 10364, as filed, modified, or corrected. If the amount of the assessment is more than the estimated cost of the project stated in the report prepared pursuant to Section 10364, as filed, modified, or

corrected, the legislative body shall include, within the resolution fixing the amount of the assessment, an explanation for the increase over the estimated cost of the project. In no case shall the amount of the assessment exceed the maximum assessment stated in the report, as filed, modified, or corrected. Resolutions adopted pursuant to this section shall be final as to all persons, and the assessment fixed shall be thereby levied upon the respective subdivisions of land in the assessment district.

SEC. 28. Section 10428 of the Streets and Highways Code is amended to read:

10428. From the date of the recordation pursuant to Sections 3114 and 3115, each special assessment levied under this division is a lien upon the land upon which it is levied. This lien is paramount to all other liens, except prior assessments and taxation. Unless sooner discharged, the lien continues for a period of 10 years from the date of the recordation or, if bonds are issued to represent the assessment, until the expiration of four years after the due date of the last installment on the bonds or of the last principal coupon attached thereto. All persons have constructive notice of this lien from the date of the recordation.

SEC. 29. Chapter 8 (commencing with Section 10700) is added to Division 12 of the Streets and Highways Code, to read:

CHAPTER 8. DEFERRAL OF ASSESSMENTS

10700. Notwithstanding any other law, the legislative body may determine, by resolution, to allow landowners to defer payment of their assessments pursuant to this chapter. This chapter may be used only if 80 percent or more of the area of the assessment district is developed for residential, commercial, or industrial use.

10701. The legislative body may determine criteria that property owners must meet to qualify for deferral, and may determine procedures to ensure that the criteria are satisfied.

10702. No deferral arrangement may restrict, reduce, or eliminate any remedy of a bondholder provided by this division in the event of a default.

10703. Deferral may be provided through a year-to-year agreement between the city and an eligible property owner, which provides that the city will make assessment payments on behalf of the property owner for that year. No agreement shall commit the city to make deferral payments beyond one year. No agreement of this type shall be construed as a debt of the city.

10704. Alternatively, the city may create a deferral fund for the assessment district, and deposit into the deferral fund an amount sufficient to pay the asessments being deferred for a specified period of time. Funds in the deferral fund may be invested as other city funds are invested, or in more restricted ways as determined by the legislative body. Any investment of the funds in the deferral fund shall comply with federal arbitrage rules.

10705. A city may increase the principal amount of bonds issued under this division by an amount sufficient to fund a program pursuant to this chapter. The proceeds of bonds issued for this purpose shall be placed in the deferral fund created pursuant to Section 10704, and may be used for no other purpose than financing deferrals. The proceeds may be invested in interest-bearing securities of the federal government with maturities occurring on or before the maturity of the bonds issued pursuant to this section. Any investment of those bond proceeds shall comply with federal arbitrage rules (26 U.S.C. Sec. 103 and the rules adopted pursuant thereto).

10706. The amount of any deferred assessments, including interest at a rate determined by the legislative body, shall be due and payable whenever the parcel of property upon which the assessment was levied is transferred, or at the time of last maturity of the bonds issued for the improvement pursuant to this division, or at other times as determined by the legislative body.

CHAPTER 1299

An act to amend Sections 7501.7, 7503.10, 7503.11, 7507.1, 7533.5, 7537, 7546.7, 7546.12, 7547.1, 7547.7, 7550.7, 7552.5, 7553.3, 7554.3, 7558, 7558.1, 7564, 7591.8, 7591.9, 7593.11, 7593.12, 7596.3, 7596.7, 7598.11, 7598.12, and 7598.17 of, to add Sections 7508.6, 7552.9, 7566, and 7599.59 to, to repeal and add Section 7506.10 of, and to repeal Sections 7510.3, 7561.2, 7591.21, 7594.7, 7594.8, 7598.18, and 7599.62 of, the Business and Professions Code, relating to business and professions.

[Approved by Governor September 19, 1984. Filed with Secretary of State September 20, 1984.]

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

SECTION 1. Section 7501.7 of the Business and Professions Code is amended to read:

7501.7. If, upon investigation, the director determines that a licensee, a qualified certificate holder, or a registrant is in violation of Section 7508.1, 7508.2, 7508.3, 7508.4, 7508.5 or 7508.6, the director may issue a citation to the licensee, qualified certificate holder, or registrant. The citation shall be in writing and shall describe with particularity the nature of the violation, including specific references to the provision of law determined to have been violated, and shall be delivered by certified mail to the licensee's, qualified certificate holder's, or registrant's address of record. If the director deems it appropriate, the citation may contain an order of abatement fixing a reasonable time for abatement of the violation and may contain assessment of an administrative fine not to exceed two thousand five hundred dollars ($2,500).

A citation or fine assessment shall inform the licensee, qualified certificate holder, or registrant that if he or she desires a hearing to contest the finding of a violation, the hearing shall be requested by written notice to the director within 30 days of the issuance of the citation or assessment, as appropriate. Any request for reconsideration received in writing by the director within the 30 days shall stay the 30 days allowed to request a hearing while the director reconsiders the fine assessment. Upon decision, the director shall notify the licensee, qualified certificate holder, or registrant in writing whether the fine assessment has been withdrawn or the fine assesssment has been reaffirmed. If the fine assessment has been reaffirmed, the director shall again inform the licensee, qualified certificate holder, or registrant in writing that he or she has 30 days to request a hearing. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

If the licensee, qualified certificate holder, or registrant neither requests a hearing nor pays the assessed fine within 30 days of the assessment, the license, qualification certificate, or registration of the person shall not be renewed pursuant to Section 7503.10 and no registration shall be issued pursuant to Article 7 (commencing with Section 7506) until the assessed fine is paid.

Administrative fines collected pursuant to this section shall be deposited in the Private Investigator Fund.

SEC. 2. Section 7503.10 of the Business and Professions Code is amended to read:

7503.10. All repossession agency licenses which expire on or after January 1, 1985, shall be placed on a cyclical renewal and shall expire one year following the date of issuance or assigned renewal date. In order to implement the cyclical renewal, the population of licensees shall be divided into 12 equal groups, the licenses of those in each group to expire on the last day of each successive month. Notwithstanding any other provision of law, the bureau shall have authority to extend or shorten the first term of licensure following January 1, 1985, and to prorate the required license fee in order to implement this cyclical renewal. To renew an unexpired license, the licensee shall apply for renewal on a form prescribed by the director, pay any and all fines assessed pursuant to Section 7501.7 and resolved in accordance with the provisions of that section, and pay the renewal fee prescribed by this chapter.

SEC. 3. Section 7503.11 of the Business and Professions Code is amended to read:

7503.11. An expired license may be reinstated within one year of the date of expiration upon compliance with the provisions of this chapter, application by the licensee, and payment of any and all fines assessed pursuant to Section 7501.7 and not resolved in accordance with the provisions of that section and payment of the reinstatement

fee provided by this chapter. Reinstatement of an expired license shall not prohibit the bringing of disciplinary proceedings for any act committed in violation of this chapter during the period the license is expired.

SEC. 4. Section 7506.10 of the Business and Professions Code is repealed.

SEC. 4.5. Section 7506.10 is added to the Business and Professions Code, to read:

7506.10. (a) Every registration which expires on or after January 1, 1985, shall be placed on a cyclical renewal and shall expire one year following the date of issuance or assigned renewal date. In order to implement such cyclical renewal, the population of registrants shall be divided into 12 equal groups, the licenses of those in each group to expire on the last day of each successive month.

Notwithstanding any other provision of law, the bureau shall have authority to extend or shorten the first term of licensure following January 1, 1985, and to prorate the required license fee in order to implement this cyclical renewal.

(b) All registrations issued on or before the effective date of this section shall expire on December 31, 1984, and every year thereafter, unless renewed as provided in this section, except for those registrations issued on or after January 1, 1984, which shall expire on December 31, 1985, and every year thereafter, unless renewed as provided in this section.

(c) At least 60 days prior to the expiration, a registrant who desires to renew his or her registration shall forward to the bureau for each registration a renewal form obtained from his or her employer or the bureau, with the renewal fee prescribed by this chapter, for renewal of his or her registration.

(d) A licensee shall provide to his or her employees information regarding procedures for renewal of registration.

(e) An expired registration may not be renewed.

(f) Upon renewal, evidence of renewal, as the director may prescribe, shall be issued to the registrant. If evidence of renewal has not been delivered to the registrant prior to the date of expiration, the registrant may present evidence of renewal to substantiate continued registration for a period not to exceed 60 days after the date of expiration.

(g) A registration shall not be renewed until any and all fines assessed pursuant to this chapter and not resolved in accordance with this chapter have been paid.

SEC. 5. Section 7507.1 of the Business and Professions Code is amended to read:

7507.1. A licensee or a qualified certificate holder shall, within 30 days after such change, notify the bureau of any change of his or her address. The principal place of business may be at a residence or at a business address, but it shall be the place at which the licensee maintains a permanent office.

SEC. 6. Section 7508.6 is added to the Business and Professions

Code, to read:

7508.6. The director may assess administrative fines against any repossession agency licensee, qualified certificate holder, or registrant for failure to notify the bureau within 30 days of any change of residence or business address.

(a) The fine shall be twenty-five dollars ($25) for each violation by a repossession agency or qualified certificate holder.

(b) The fine shall be fifteen dollars ($15) for each violation by a registrant.

SEC. 7. Section 7510.3 of the Business and Professions Code is repealed.

SEC. 8. Section 7533.5 of the Business and Professions Code is amended to read:

7533.5. A licensee shall, within 30 days after such change, notify the bureau of any change in its corporate officers.

Applications, on forms prescribed by the director, shall be submitted by all new officers. The director may suspend or revoke a license issued under this chapter if he or she determines that at the time the person became an officer of a licensee, any of the facts stated in Section 7538 or 7538.5 existed as to such person.

SEC. 9. Section 7537 of the Business and Professions Code is amended to read:

7537. (a) Except as provided in subdivision (c), where the individual on the basis of whose qualifications a license under this chapter has been obtained ceases to be connected with the licensee for any reason whatever, the business may be carried on for such temporary period and under such terms and conditions as the director shall provide by regulation, provided that application for permission to carry on the business is made to the chief within 90 days after the cessation, and the application is approved by the chief.

(b) In case of the death of a person licensed as an individual, a member of the immediate family of the deceased licensee shall be entitled to continue the business under the same license for a reasonable length of time as the director shall provide by regulation, provided that application for permission is made to the chief within 90 days following the death of the licensee, and the application is approved by the chief.

(c) If the manager, who has qualified as provided in Section 7536, ceases for any reason whatsoever to be connected with the licensee to whom the license is issued, the licensee shall notify the bureau in writing 30 days from such cessation. If notice is given, the license shall remain in force for a reasonable length of time to be determined by the rules of the director pending the qualifications of another manager as provided in this chapter. If the licensee fails to notify the bureau within the 30-day period, his or her license shall be automatically suspended and may be reinstated only upon the filing of an application for reinstatement, payment of the reinstatement fee, if any be due, and the qualification of a manager as provided in this chapter.

(d) A license extended under this section is subject to all other provisions of this chapter.

SEC. 10. Section 7546.7 of the Business and Professions Code is amended to read:

7546.7. If the director determines that continued employment of an applicant, firearms qualification card holder, or registrant, in his or her current capacity, may present an undue hazard to the public safety, the licensee, upon proper notification from the director, shall suspend the applicant, firearms qualification card holder, or registrant from employment in that capacity.

A registrant, firearms qualification card holder, or applicant may request a review by the Private Security Disciplinary Review Committee as set forth in Section 7517.2 to appeal the suspension.

SEC. 11. Section 7546.12 of the Business and Professions Code is amended to read:

7546.12. (a) All registrations which expire on or after January 1, 1985, shall be placed on a cyclical renewal and shall expire two years following the date of issuance or assigned renewal date. In order to implement such cyclical renewal, the population of registrants shall be divided into 24 equal groups, the registrations of those in each group to expire on the last day of each successive month. Notwithstanding any other provision of law, the bureau shall have authority to extend or shorten the first term of licensure following January 1, 1985, and to prorate the required license fee in order to implement this cyclical renewal. At least 60 days prior to the expiration of a registration, a registrant who desires to continue registration shall forward to the bureau a copy of his or her current registration card, along with the renewal fee as set forth in this chapter, for renewal of his or her registration.

(b) The licensee shall provide to any employee information regarding procedures for renewal or registration.

(c) An expired registration may not be renewed. A person with an expired registration may become eligible for employment in a position for which registration is required by applying for a new registration in the manner required of persons not previously registered.

(d) If the renewed registration card has not been delivered to the registrant prior to the date of expiration of the prior registration, the registrant may present evidence of renewal to substantiate continued registration for a period not to exceed 90 days after the date of expiration.

(e) A registration shall not be renewed until any and all fines assessed pursuant to Section 7564 and not resolved in accordance with the provisions of that section have been paid.

SEC. 12. Section 7547.1 of the Business and Professions Code is amended to read:

7547.1. The bureau shall issue a firearms qualification card when all of the following conditions are satisfied:

(a) The applicant is a licensee, a qualified manager of a licensee,

or a registered uniformed security guard.

(b) A certified firearms training instructor has certified that the applicant has successfully completed a written examination prepared by the bureau and training course in the carrying and use of firearms approved by the bureau.

(c) The applicant has filed with the bureau a completed application for a firearms qualification card on a form prescribed by the director, dated and signed by the applicant, certifying under penalty of perjury that the information in the application is true and correct.

(d) The bureau has determined, after investigation, that the carrying and use of a firearm by the applicant, in the course of his or her duties, presents no apparent threat to the public safety, or that the carrying and use of a firearm by the applicant is not in violation of the Penal Code.

(e) The applicant has produced evidence to the firearm training facility that he or she is a citizen of the United States or has permanent legal alien status in the United States. Such evidence of citizenship or permanent legal alien status shall be that deemed sufficient by the bureau to ensure compliance with federal laws prohibiting possession of firearms by persons unlawfully in the United States and may include, but not be limited to, Department of Justice, Immigration and Naturalization Service Form I-151 or I-551, Alien Registration Receipt Card, naturalization documents, or birth certificates evidencing lawful residence or status in the United States.

(f) The application is accompanied by the application fees prescribed in this chapter.

SEC. 13. Section 7547.7 of the Business and Professions Code is amended to read:

7547.7. (a) A firearms qualification card expires one year from the date of issuance, if not renewed. A person who wishes to renew a firearms qualification card may file an application for renewal within 60 days prior to the card's expiration. A person whose card has expired shall not carry a firearm until he or she has been issued a renewal card by the bureau.

(b) The bureau shall not renew a firearms qualification card unless all of the following conditions are satisfied:

(1) The cardholder has filed with the bureau a completed application for renewal of a firearms qualification card, on a form prescribed by the director, dated and signed by the applicant under penalty of perjury certifying that the information on the application is true and correct.

(2) The applicant has requalified on the range and has successfully passed a written examination based on course content as specified in the firearms training manual approved by the department and taught at a training facility approved by the bureau.

(3) The application is accompanied by a firearms requalification fee as prescribed in this chapter.

(4) During calendar year 1985, the applicant has produced evidence to the firearm training facility either upon receiving his or her original qualification card or upon filing for renewal of that card that he or she is a citizen of the United States or has permanent legal alien status in the United States. Such evidence of citizenship or permanent legal alien status shall be that deemed sufficient by the bureau to ensure compliance with federal laws prohibiting possession of firearms by persons unlawfully in the United States and may include, but not be limited to, Department of Justice, Immigration and Naturalization Service Form I-151 or I-551, Alien Registration Receipt Card, naturalization documents, or birth certificates evidencing lawful residence or status in the United States.

(c) An expired firearms qualification card may not be renewed. A person with an expired registration is required to apply for a new firearms qualification in the manner required of persons not previously registered. A person whose card has expired shall not carry a firearm until he or she has been issued a new firearms qualification card by the bureau.

SEC. 14. Section 7550.7 of the Business and Professions Code is amended to read:

7550.7. (a) All registrations which expire on or after January 1, 1985, shall be placed on a cyclical renewal and shall expire two years following the date of issuance or assigned renewal date. In order to implement such cyclical renewal, the population of registrants shall be divided into 24 equal groups, the registrations of those in each group to expire on the last day of each successive month. Notwithstanding any other provision of law, the bureau shall have authority to extend or shorten the first term of licensure following January 1, 1985, and to prorate the required license fee in order to implement this cyclical renewal. At least 60 days prior to the expiration of registration, a registrant who desires to renew his or her registration shall forward to the bureau a copy of his or her current registration card, with the renewal fee as set forth in this chapter, for renewal of his or her registration.

(b) An expired registration may not be renewed. A person with an expired registration may become eligible for employment in a position for which registration is required by applying for a new registration in the manner required of persons not previously registered.

(c) If the renewed registration card has not been delivered to the registrant prior to the date of expiration of the prior registration, the registrant may present evidence of renewal to substantiate continued registration for a period not to exceed 90 days after the date of expiration.

(d) A registration shall not be renewed until any and all fines assessed pursuant to Section 7564 and not resolved in accordance with the provisions of that section have been paid.

SEC. 15. Section 7552.5 of the Business and Professions Code is

amended to read:

7552.5. (a) Any individual who desires certification by the bureau to instruct a firearms course shall complete an application for a firearms training instructor certificate. An application shall be made on a form provided by the bureau.

(b) An applicant for a firearms training instructor certificate shall meet the following minimum qualifications:

(1) Possess an associate of arts degree in the administration of justice or one year of teaching or training experience in firearms or the equivalent thereof.

(2) Possess a police or security firearms instructor training certificate issued by the National Rifle Association or a firearms instructor training certificate issued by a federal, state, or local agency.

(c) The application shall be accompanied by the fee prescribed in this chapter.

(d) Upon approval by the bureau of an applicant for certification as a firearms training instructor, the chief shall issue to the applicant a "Firearms Training Instructor Certificate." The certificate shall be posted at the training site.

SEC. 16. Section 7552.9 is added to the Business and Professions Code, to read:

7552.9. (a) Each firearm training facility shall, prior to allowing any person to participate in the course of training in the carrying and usage of firearms, verify and certify on the firearms qualification application that the person is a citizen of the United States or possesses permanent legal alien status in the United States in accordance with Sections 7547.1 and 7596.3.

(b) During calendar year 1985, each firearm training facility shall, prior to allowing any person to participate in the requalification course in the carrying and usage of firearms, verify and certify on the firearm requalification application that the person is a citizen of the United States or possesses permanent legal alien status in the United States in accordance with Sections 7547.7 and 7596.7.

SEC. 17. Section 7553.3 of the Business and Professions Code is amended to read:

7553.3. Any individual who desires certification by the bureau to instruct the baton course shall complete an application for a baton training instructor certificate. An application shall be made on a form provided by the bureau.

An applicant for a baton training instructor certificate shall meet the following minimum qualifications:

(a) Possess an associate of arts degree in the administration of justice or the equivalent thereof.

(b) Possess a baton instructor certificate issued by a federal, state, or local agency or one year of verifiable baton teaching or training experience or the equivalent thereof to be determined by the chief.

(c) The application shall be accompanied by the fee prescribed in this chapter.

(d) Upon approval by the bureau of an applicant for certification as a baton training instructor, the chief shall issue to the applicant a "Baton Training Instructor Certificate." The certificate shall be posted at the baton training site.

SEC. 18. Section 7554.3 of the Business and Professions Code is amended to read:

7554.3. (a) A firearms training facility certificate, a firearms training instructor certificate, a baton training facility certificate, or a baton training instructor certificate which expires on or after January 1, 1985, shall be placed on a cyclical renewal and shall expire two years following the date of issuance or assigned renewal date. In order to implement such cyclical renewal, the population of licensees mentioned in this section shall be divided into 24 equal groups, the licenses of each group to expire on the last day of each successive month. Notwithstanding any other provision of law, the bureau shall have authority to extend or shorten the first term of licensure following January 1, 1985, and to prorate the required license fee in order to implement this cyclical renewal. To renew an unexpired certificate, the certificate holder shall apply for renewal on a form prescribed by the director and pay the renewal fee prescribed by this chapter.

(b) If renewal is granted, such evidence of renewal of the certificate as the director may prescribe shall be issued to the certificate holder.

(c) In the event the certificate holder fails to renew his or her training facility certificate or training instructor certificate, the certificate shall be automatically canceled, but may be reinstated within 30 days of the date of cancellation upon application for reinstatement and upon the payment of the reinstatement fee provided by this chapter. Reinstatement of a canceled certificate shall not prohibit the bringing of disciplinary proceedings for any act committed in violation of this chapter during the period such certificate is canceled.

(d) A firearms training facility, a firearms training instructor, a baton training facility, or a baton training instructor whose certificate has not been renewed may obtain a new license only upon compliance with all of the provisions of this article relating to the issuance of an original certificate.

(e) A firearms training facility, firearms training instructor, baton training facility, or a baton training instructor certificate shall not be renewed until any and all fines assessed pursuant to Section 7564 and not resolved in accordance with the provisions of that section have been paid.

SEC. 18.5. Section 7558 of the Business and Professions Code is amended to read:

7558. (a) Every private patrol operator and private investigator license, branch office certificate and pocket card issued under this chapter which expires on or after January 1, 1985, shall be placed on a cyclical renewal and shall expire two years following the date of

issuance or assigned renewal date. In order to implement such cyclical renewal, the population of such licensees shall be divided into 24 equal groups, the licenses of those in each group to expire on the last day of each successive month. Notwithstanding any other provision of law, the bureau shall have authority to extend or shorten the first term of licensure following January 1, 1985, and to prorate the required license fee in order to implement this cyclical renewal.

(b) Every protection dog operator license, branch office certificate, and pocket card issued under this chapter which expires on or after January 1, 1985, shall be placed on a cyclical renewal and shall expire one year following the date of issuance or assigned renewal date. In order to implement such cyclical renewal, the population of such licensees shall be divided into 12 equal groups, the licenses of those in each group to expire on the last day of each successive month. Notwithstanding any other provision of law, the bureau shall have authority to extend or shorten the first term of licensure following January 1, 1985, and to prorate the required license fee in order to implement this cyclical renewal.

SEC. 19. Section 7558.1 of the Business and Professions Code is amended to read:

7558.1. (a) To renew an unexpired license or certificate, the licensee shall, on or before the date on which it would otherwise expire, apply for renewal on a form prescribed by the director, and pay the renewal fee prescribed by this chapter. On renewal, such evidence of renewal of the license or certificate as the director may prescribe, and renewal pocket cards for the persons mentioned in Section 7529, shall be issued to the licensee.

(b) A license or certificate shall not be renewed until any and all fines assessed pursuant to Section 7564 and not resolved in accordance with the provisions of that section have been paid.

SEC. 20. Section 7561.2 of the Business and Professions Code is repealed.

SEC. 21. Section 7564 of the Business and Professions Code is amended to read:

7564. If, upon investigation, the director determines a licensee, including a corporation, or registrant is in violation of Section 7544.5, 7544.6, 7548, 7550.2, 7550.8, 7550.9, 7550.10, 7554.2, 7561.2, or 7566, the director may issue a citation to such licensee or registrant. The citation shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated. If the director deems it appropriate, the citation may contain an order of abatement fixing a reasonable time for abatement of the violation and may contain an assessment of an administrative fine. The amount of the fine shall in no event exceed one thousand dollars ($1,000) or as otherwise provided in this chapter, whichever is less.

A citation or fine assessment shall inform the licensee or registrant that if he or she contests the finding of a violation, they may request a review by a disciplinary review committee in accordance with

Section 7517.2, if allowed under this chapter. If a review is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. If a review is not allowed under this chapter, a licensee or registrant may request a hearing in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code if he or she wishes to contest the findings of a violation and if a hearing is not requested, payment of any fines shall not constitute an admission of the violation charged.

If the licensee or registrant neither requests a review, if allowed under this chapter, or a hearing, nor pays the assessed fine within 30 days of the assessment, the license or registration of such person shall not be renewed pursuant to the provisions of this chapter until the assessed fine is paid.

Administrative fines collected pursuant to this article shall be deposited in the Private Investigator Fund.

SEC. 22. Section 7566 is added to the Business and Professions Code, to read:

7566. The director may assess administrative fines against any licensee, registrant, or firearms qualification card holder for failure to notify the bureau within 30 days of any change of residence or business address. The principal place of business may be at a home or at a business address but it shall be the place at which the licensee maintains a permanent office.

(a) The fine shall be twenty-five dollars ($25) for each violation by a licensee.

(b) The fine shall be fifteen dollars ($15) for each violation by a registrant or a firearms qualification card holder.

SEC. 23. Section 7591.8 of the Business and Professions Code is amended to read:

7591.8. The director may automatically suspend a license, registration, or firearm qualification card if it is determined that the continued possession of such a license, registration, or card by the licensee, registrant, or card holder presents an undue hazard to public safety which may result in substantial injury to another.

A licensee, registrant, or firearm qualification card holder may request a review by the Alarm Company Operator Disciplinary Review Committee as set forth in Section 7591.19 to appeal the suspension.

SEC. 24. Section 7591.9 of the Business and Professions Code is amended to read:

7591.9. If, upon investigation, the chief determines that an alarm company operator, a qualified manager, or an alarm agent is in violation of Sections 7597.1, 7597.2, 7597.3, 7597.5, 7597.6, 7598.51, 7598.53, 7599.32, 7599.33, 7599.34, 7599.36, 7599.37, 7599.38, 7599.39, 7599.40, 7599.41, 7599.42, 7599.43, 7599.44, 7599.45, 7599.46, 7599.47, 7599.48, 7599.49, 7599.50, 7599.51, 7599.52, 7599.53, 7599.54, 7599.55, 7599.58, and 7599.59, the director may issue a citation to, and fine, the alarm company operator, qualified manager, or alarm agent. The

citation and fine assessment shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated. The citation shall contain an order of abatement fixing a reasonable time for abatement of the violation and may contain assessment of an administrative fine. The amount of the fine for any single investigation or audit of an alarm company operator, a qualified manager, or an alarm agent shall not exceed two thousand five hundred dollars ($2,500).

A citation and fine assessment shall inform the alarm company operator, qualified manager, or alarm agent that if he or she desires a review by the Alarm Company Operator Disciplinary Review Committee, the review shall be requested by written notice to the chief within 30 days of the issuance of the citation and assessment, as appropriate. If a review is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. A review shall be held pursuant to the provisions of Section 7591.19.

If the alarm company operator, qualified manager, or alarm agent fails to request a review or fails to pay the assessed fine within 30 days of the assessment, the license, certificate, or registration shall not be renewed pursuant to the provisions of this chapter until the assessed fine is paid.

Administrative fines collected pursuant to this section shall be deposited in the Private Investigator Fund.

SEC. 25. Section 7591.21 of the Business and Professions Code is repealed.

SEC. 26. Section 7593.11 of the Business and Professions Code is amended to read:

7593.11. Every alarm company operator license issued under this chapter which expires on or after January 1, 1985, shall be placed on a cyclical renewal, and shall expire two years following the date of issuance or assigned renewal date. In order to implement such cyclical renewal, the population of licensees shall be divided into 24 equal groups, the licenses of those in each group to expire on the last day of each successive month. Notwithstanding any other provision of law, the bureau shall have authority to extend or shorten the first term of licensure following January 1, 1985, and to prorate the required license fee in order to implement this cyclical renewal. To renew an unexpired license or certificate, the licensee shall apply for renewal on a form prescribed by the director, pay any and all fines assessed pursuant to Section 7591.9 and not resolved in accordance with the provisions of that section, and pay the renewal fee prescribed by this chapter. On renewal, such evidence of renewal of the license or certificate as the director may prescribe shall be issued to the licensee. The bureau shall send to each licensee a notice of renewal at least 45 calendar days prior to the expiration of each unexpired license.

SEC. 27. Section 7593.12 of the Business and Professions Code is

amended to read:

7593.12. An alarm company operator's license not renewed within one year following its expiration may not be renewed thereafter. Renewal of the license within one year, or issuance of an original license thereafter, shall be subject to payment of any and all fines assessed pursuant to Section 7591.9 and not resolved in accordance with the provisions of that section and payment of all applicable fees.

SEC. 28. Section 7594.7 of the Business and Professions Code is repealed.

SEC. 29. Section 7594.8 of the Business and Professions Code is repealed.

SEC. 30. Section 7596.3 of the Business and Professions Code is amended to read:

7596.3. The director shall issue a firearms qualification card when all of the following conditions exist:

(a) The applicant is a licensee, a qualified manager of a licensee, a designated branch office manager of a licensee, or a registered alarm agent.

(b) The applicant has filed with the bureau a completed application for a firearms qualification card on a form prescribed by the director, dated and signed by the applicant, certifying under penalty of perjury that the information in the application is true and correct.

(c) A certified firearms training instructor certifies that the applicant has successfully completed the bureau-approved training course in the carrying and use of firearms.

(d) The applicant has provided the bureau with evidence that the applicant has completed a course in the exercise of the powers to arrest.

(e) The bureau has determined, after investigation, that the carrying and use of a firearm by the applicant, in the course of his or her duties, presents no apparent threat to the public safety, or the carrying and use of a firearm by the applicant is not in violation of the Penal Code.

(f) The applicant has produced evidence to the firearm training facility that he or she is a citizen of the United States or has permanent legal alien status in the United States. Such evidence of citizenship or permanent legal alien status shall be that deemed sufficient by the bureau to ensure compliance with federal laws prohibiting possession of firearms by persons unlawfully in the United States and may include, but not be limited to, Department of Justice, Immigration and Naturalization Service Form I-151 or I-551, Alien Registration Receipt Card, naturalization documents, or birth certificates evidencing lawful residence or status in the United States.

(g) The application is accompanied by the fee prescribed in this chapter.

SEC. 31. Section 7596.7 of the Business and Professions Code is

amended to read:

7596.7. A firearms qualification card expires one year from the date of issuance, if not renewed. A person who wishes to renew a firearms qualification card may file an application for renewal within 60 days prior to the card's expiration. A person whose card has expired shall not carry a firearm until he or she has been issued a renewal card by the bureau.

The director shall not renew a firearms qualification card unless all of the following conditions exist:

(a) The cardholder has filed with the bureau a completed application for renewal of a firearms qualification card, on a form prescribed by the director, dated and signed by the applicant under penalty of perjury certifying that the information on the application is true and correct.

(b) The application is accompanied by a firearms requalification fee as prescribed in this chapter.

(c) The applicant has successfully passed a written examination based on course content as specified in the firearms training manual approved by the department and taught at a training facility approved by the bureau.

(d) During calendar year 1985, the applicant has produced evidence to the firearm training facility either upon receiving his or her original qualification card or upon filing for renewal of that card that he or she is a citizen of the United States or has permanent legal alien status in the United States. Such evidence of citizenship or permanent legal alien status shall be that deemed sufficient by the bureau to ensure compliance with federal laws prohibiting possession of firearms by persons unlawfully in the United States and may include, but not be limited to, Department of Justice, Immigration and Naturalization Service Form I-151 or I-551, Alien Registration Receipt Card, naturalization documents, or birth certificates evidencing lawful residence or status in the United States.

An expired firearms qualification card may not be renewed. A person with an expired firearms qualification card is required to apply for a new card in the manner required of persons not previously registered. A person whose card has expired shall not carry a firearm until he or she has been issued a new firearms qualification card by the bureau.

SEC. 32. Section 7598.11 of the Business and Professions Code is amended to read:

7598.11. If the chief determines that an applicant's criminal history contains arrest information for which there appears no disposition, the chief shall issue a notice to the applicant allowing the applicant 45 days for the applicant to provide documentation concerning the disposition of the arrest or arrests.

The notice shall be sent to the applicant and shall provide sufficient information to assist the applicant in complying with the chief's request. If the applicant fails to respond within 45 days, the

applicant's employment shall be automatically suspended until the bureau obtains the necessary documentation to approve or deny the application.

SEC. 33. Section 7598.12 of the Business and Professions Code is amended to read:

7598.12. If the director determines that continued employment of an applicant or registrant, in his or her current capacity, may present an undue hazard to public safety, the licensee, upon proper notification from the director, shall suspend the applicant or registrant from employment in that capacity.

A registrant or applicant may request a review by the Alarm Company Disciplinary Review Committee as set forth in Section 7591.19 to appeal the suspension.

SEC. 34. Section 7598.17 of the Business and Professions Code is amended to read:

7598.17. All registrations which expire on or after January 1, 1985, shall be placed on a cyclical renewal and shall expire two years following the date of issuance or assigned renewal date. In order to implement the cyclical renewal, the population of registrants shall be divided into 24 equal groups, the registrations of those in each group to expire on the last day of each successive month. Notwithstanding any other provision of law, the bureau shall have authority to extend or shorten the first term of licensure following January 1, 1985, and to prorate the required license fee in order to implement this cyclical renewal. At least 60 days prior to the expiration of a registration, a registrant who desires to renew his or her registration shall forward to the bureau a copy of his or her current registration card, along with the renewal fee as set forth in this chapter, to the bureau for renewal of his or her registration.

The licensee shall provide to any employee information regarding procedures for renewal of registration.

An expired registration may not be renewed. A person with an expired registration may become eligible for employment, in a position for which registration is required, by applying for a new registration in the manner required of persons not previously registered.

If the renewed registration card has not been delivered to the registrant, prior to the date of expiration of the prior registration, the registrant may present evidence of renewal to substantiate continued registration, for a period not to exceed 90 days after the date of expiration.

A registration shall not be renewed until any and all fines assessed pursuant to Section 7591.9 and not resolved in accordance with the provisions of that section have been paid.

SEC. 35. Section 7598.18 of the Business and Professions Code is repealed.

SEC. 36. Section 7599.59 is added to the Business and Professions Code, to read:

7599.59. The director may assess administrative fines against any

licensee, qualified certificate holder, firearms qualification card holder, or registrant for failure to notify the bureau within 30 days of any change of residence or business address.

(a) The fine shall be twenty-five dollars ($25) for each violation by a licensee or qualified certificate holder.

(b) The fine shall be fifteen dollars ($15) for each violation by a firearms qualification card holder or registrant.

SEC. 37. Section 7599.62 of the Business and Professions Code is repealed.

CHAPTER 1300

An act to amend Section 69769 of, and to add Sections 69769.3, 69769.4, 69769.5, 69769.7, and 69769.9 to, the Education Code, relating to student aid.

[Approved by Governor September 19, 1984. Filed with Secretary of State September 20, 1984]

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

SECTION 1. Section 69769 of the Education Code is amended to read:

69769. The commission shall establish a Loan Study Council. The Loan Study Council shall be comprised of 16 members, appointed by the commission, comprised of representatives of students, postsecondary educational institutions, and private lenders.

SEC. 2. Section 69769.3 is added to the Education Code, to read:

69769.3. (a) The Loan Study Council established pursuant to Section 69769 shall be composed of members appointed from the following groups:

(1) Five representatives of the lending community participating in the California Educational Loan Program.

(2) One representative each from the University of California, the California State University, the California Community Colleges, a private nonprofit postsecondary education institution, and a private for-profit postsecondary education institution.

(3) One representative from the California Association of Student Financial Aid Administrators.

(4) Five student representatives from the same postsecondary segments listed in paragraph (2). In no event shall a student representative be appointed to serve simultaneously as the representative of more than one of these five postsecondary groups.

(b) (1) The representatives appointed by the commission pursuant to paragraph (1) of subdivision (a) shall be selected by the commission from its list of lenders participating in the California Educational Loan Program.

(2) The representatives appointed by the commission pursuant to

paragraphs (2) to (4), inclusive, of subdivision (a) shall be selected by the commission from lists provided to its chair by each group described in those paragraphs.

SEC. 3. Section 69769.4 is added to the Education Code, to read:

69769.4. In addition to the members appointed to the Loan Study Council pursuant to Section 69769.3, the United States Department of Education may appoint one nonvoting representative to the council who shall serve as liaison between that department and the council.

SEC. 4. Section 69769.5 is added to the Education Code, to read:

69769.5. The Loan Study Council shall review the activities and policies of the California Educational Loan Program and shall regularly advise the commission of its findings and recommendations. The Loan Study Council may gather information and data that it deems appropriate from the Student Aid Commission with respect to the California Educational Loan Program or any other loan program administered by the commission.

SEC. 5. Section 69769.7 is added to the Education Code, to read:

69769.7. The Loan Study Council shall annually elect a chair and a vice chair from its membership. Representatives who serve on, or are employed or retained by, the commission, and the nonvoting representative appointed by the United States Department of Education, if any, are ineligible for election to these positions.

The chair of the Loan Study Council shall have the authority, in consultation with the chair of the Student Aid Commission, to convene meetings of the council. The chair shall also direct each council meeting and shall regularly present oral and written reports to the commission regarding the advice of the council. The vice chair of the Loan Study Council shall assume these responsibilities in the absence of the chair.

SEC. 6. Section 69769.9 is added to the Education Code, to read:

69769.9. Commencing January 15, 1986, and each January 15 thereafter, the Student Aid Commission shall report to the Senate Finance Committee and the Assembly Ways and Means Committee all of the following information:

(a) The number of meetings held by the Loan Study Committee.

(b) The topics discussed and actions taken at each of those meetings.

CHAPTER 1301

An act to amend Sections 7650, 7652, 7652.1, 8236, and 15801 of, to repeal and add Section 7652.2 of, and to add Sections 7652.3, 7852.8, 8233.5, and 15007 to, the Fish and Game Code, and to repeal Section 35 of Chapter 1486 of the Statutes of 1982, relating to fish and game, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1984. Filed with Secretary of State September 20, 1984.]

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

SECTION 1. Section 7650 of the Fish and Game Code is amended to read:

7650. As used in this article:

(a) "Act" means the Magnuson Fishery Conservation and Management Act (16 U.S.C. Sec. 1801 et seq.).

(b) "Council" means the Pacific Fishery Management Council established pursuant to the act, or its successor agency.

(c) "Fishery" means both of the following:

(1) One or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics.

(2) Any fishing for those stocks.

(d) "Joint committee" means the Joint Committee on Fisheries and Aquaculture created pursuant to Resolution Chapter 88 of the Statutes of 1981.

(e) "Optimum yield" means the amount of fish which will provide the greatest overall benefit to the nation, with particular reference to food production and recreational opportunities, and which is prescribed as such on the basis of the maximum sustainable yield from the fishery, as modified by any relevant economic, social, or ecological factor.

(f) "Secretary" means the Secretary of Commerce of the federal government.

SEC. 2. Section 7652 of the Fish and Game Code is amended to read:

7652. Upon the preparation by the council, and the recommendation by the council to the secretary, of a fishery management plan or amendment thereto pursuant to the act, or upon the approval of the secretary of a fishery management plan, or amendment thereto, pursuant to the act, the director may do the following to conform state law or regulations of the commission to the fishery management plan, or amendment thereto, if the director finds that the action is necessary to achieve optimum yield in California and that it is necessary to avoid a substantial and adverse effect on the plan by that state law or the regulations in order to continue state jurisdiction pursuant to Section 1856 of the act:

(a) Adopt regulations that would make inoperative for up to 180 days any statute or regulation of the commission, including, but not limited to, statutes or regulations regulating bag limits, methods of take, and seasons for taking of fish for commercial purposes.

Any regulation adopted by the director pursuant to this subdivision shall specify the particular statute or regulation of the commission to be inoperative.

(b) Adopt regulations effective for up to 180 days governing phases of the taking of fish for commercial purposes which are not presently regulated by statute or regulation of the commission.

(c) Adopt regulations effective for up to 180 days governing phases of the taking of fish for commercial purposes which are presently regulated by statute or regulation of the commission, only if the statutes or regulations are first made inoperative pursuant to subdivision (a) for the effective period of the regulations adopted by the director.

SEC. 3. Section 7652.1 of the Fish and Game Code is amended to read:

7652.1. (a) Notwithstanding any other section of this article or any other provisions of law, the director shall hold a public hearing or hearings in the area of the fishery under consideration after a recommendation by the council to the secretary of a fishery management plan or amendment thereto pursuant to the act, or after approval by the secretary of a fishery management plan or amendment thereto pursuant to the act. If the secretary approves a fishery management plan or amendment thereto which is substantially identical to the fishery management plan or amendment thereto which has been recommended by the council and the director has held a public hearing on the council's recommended fishery management plan or amendment thereto, the director is not required to hold a second public hearing under this section after the approval by the secretary.

(b) The hearing shall be held not less than four days after the recommendation by the council to the secretary of a fishery management plan or amendment thereto or after the approval by the secretary of a fishery management plan or amendment thereto.

The director shall arrange the time and place of the hearing, shall provide adequate public notice and adequate notice to the appropriate standing policy committee of each house of the Legislature and to the joint committee, and shall convene the hearing at the time and place arranged.

(c) At the hearing or hearings, the director shall take evidence of the effects any proposed regulation would have on the state's fishery resources, the commercial or recreational fishing industry, and the state's ability to manage fishery resources in state waters.

(d) After the hearings, the director shall submit a written report to the Legislature which summarizes the reasons for the proposed regulation.

SEC. 4. Section 7652.2 of the Fish and Game Code is repealed.

SEC. 5. Section 7652.2 is added to the Fish and Game Code, to read:

7652.2. (a) The director may repeal or amend any regulation adopted pursuant to Section 7652 or any other regulation to conform the regulation to federal regulations pursuant to the act, if the director finds that this action is necessary to achieve optimum yield in California.

(b) Notwithstanding any other section of this article or any other provision of law, the director shall hold a public hearing or hearings in the area of the fishery under consideration before the director repeals or amends any regulation pursuant to this section. The director shall arrange the time and place of the hearing, shall provide adequate public notice and adequate notice to the appropriate standing policy committee of each house of the Legislature and to the joint committee, and shall convene the hearing at the time and place arranged.

(c) At the hearing or hearings, the director shall take evidence of the effects the proposed repeal or amendment would have on the state's fishery resources, the commercial or recreational fishing industry, and the state's ability to manage fishery resources in state waters.

(d) After the hearings, the director shall submit a written report to the Legislature which summarizes the reasons for the proposed repeal or amendment.

SEC. 6. Section 7652.3 is added to the Fish and Game Code, to read:

7652.3. (a) The director shall not adopt, amend, or repeal any regulation pursuant to this article until the director has held one or more hearings and submitted a report to the Legislature pursuant to Section 7652.1 or 7652.2, whichever is applicable.

(b) The report to the Legislature shall be delivered or placed in the United States Postal Service addressed to the Chairperson of the Joint Committee on Fisheries and Aquaculture and to the chairperson of the appropriate policy committee of each house of the Legislature.

SEC. 7. Section 7852.8 is added to the Fish and Game Code, to read:

7852.8. After January 1, 1985, the owner or operator of each vessel holding a commercial salmon vessel permit under Section 8232 shall obtain a commercial fishing salmon stamp and pay the fees for the stamp under Sections 7852.5 and 7860 for each year, whether engaged in commercial fishing for salmon or not.

SEC. 8. Section 8233.5 is added to the Fish and Game Code, to read:

8233.5. After January 1, 1985, no vessel permit shall be issued or renewed under this article unless the owner or operator obtains a commercial fishing salmon stamp and pays the fees for the stamp prescribed in Sections 7852.5 and 7860 prior to, or simultaneously with, the application for issuance or renewal of the commercial salmon vessel permit and the payment of fees under Section 8236.

SEC. 9. Section 8236 of the Fish and Game Code, as amended by Chapter 106 of the Statutes of 1984, is amended to read:

8236. (a) A vessel permit shall be renewed annually by May 1. The department shall set a fee to be charged for a vessel permit which shall not exceed the reasonable costs of implementing and administering the provisions of this article except the costs of

implementing and administering subdivision (c).

(b) The department annually shall set an additional fee which shall not exceed the estimated reasonable costs of implementing and administering subdivision (c). The additional fee shall be charged for any permit for which the permit application or the permit renewal application is received after April 1 and before May 1. Amounts received before May 1, 1984, under this subdivision are subject to refund under Section 13004.

(c) If the department does not receive a permit renewal application for any vessel for which a vessel permit has been issued, the department shall notify the owner of the vessel. The notice shall be in writing, shall be addressed to the owner at the address listed on his or her most recent permit or permit renewal application, and shall be sent by registered mail no later than April 20. The notice shall include all of the following:

(1) Instructions on how to apply for permit renewal.

(2) Information on the provisions of subdivision (b).

(3) Information on the provisions of subdivision (b) of Section 8237.

SEC. 10. Section 15007 is added to the Fish and Game Code, to read:

15007. Except as specifically authorized in Chapter 10 (commencing with Section 15900), nothing in this division permits ocean ranching.

SEC. 11. Section 15801 of the Fish and Game Code is amended to read:

15801. Each member of the Interagency Committee for Aquaculture Development shall serve at the pleasure of the agency that the member represents.

SEC. 12. Section 35 of Chapter 1486 of the Statutes of 1982 is repealed.

SEC. 13. The Department of Fish and Game shall study the feasibility of acquiring real property in Humboldt County, commonly known as Ocean Ranch and Table Bluff and consisting of approximately 933 acres with 2.3 miles of beach frontage and three-fourths of a mile of national wildlife refuge frontage.

SEC. 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to permit the Director of Fish and Game to adopt, repeal, or amend regulations regarding the management of fisheries in state waters at the earliest possible time, in order to allow state agencies to appoint appropriate members of the Interagency Committee for Aquaculture Development in a timely manner, and in order to permit the study of the acquisition of real property in Humboldt County as soon as possible in the 1984–85 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 1302

An act to amend and repeal Section 54790 of, to amend Section 66452.6 of, and to amend, repeal, and add Section 66463.5 of, the Government Code, relating to local agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1984. Filed with Secretary of State September 20, 1984]

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

SECTION 1. Section 54790 of the Government Code, as amended by Section 7 of Chapter 1178 of the Statutes of 1982, is amended to read:

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

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

(1) The incorporation of cities.

(2) The formation of special districts.

(3) The annexation of territory to local agencies, (other than local agencies the annexation of territory to which is required to be made pursuant to the provisions of Division 1 (commencing with Section 56000) of Title 6); provided, however, that a commission shall not have the power to disapprove an annexation, initiated by resolution, of contiguous territory which the commission finds is either (1) surrounded or substantially surrounded by the city to which the annexation is proposed or by such city and a county boundary or the Pacific Ocean if the territory to be annexed is substantially developed or developing, is not prime agricultural land as defined in Section 35046, and is designated for urban growth by the general plan of the annexing city or, (2) located within an urban service area which has been delineated and adopted by a commission, which is not prime agricultural land, as defined in Section 35046 and is designated for urban growth by the general plan of the annexing city. A commission shall not impose any conditions which would directly regulate land use, property development, or subdivision requirements. When the development purposes are not made known to the annexing agency, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing agency. Nothing in this paragraph, however, shall be construed as prohibiting a commission from requiring, as a condition to annexation, that a city prezone the territory to be annexed provided that the commission shall not specify how, or in what manner, the territory shall be prezoned.

(4) The exclusion of territory from a city.

(5) The disincorporation of a city.

(6) The consolidation of two or more cities.

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

(b) To adopt procedures for the evaluation of proposals. The commission may adopt standards for any of the factors enumerated in Section 54796.

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

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

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

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

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

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

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

SEC. 2. Section 54790 of the Government Code, as amended by Section 4 of Chapter 855 of the Statutes of 1981, is amended to read:

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

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

(1) The incorporation of cities.

(2) The formation of special districts.

(3) The annexation of territory to local agencies, (other than local agencies the annexation of territory to which is required to be made pursuant to the provisions of Division 1 (commencing with Section 56000) of Title 6); provided that a commission shall not impose any conditions which would directly regulate land use, property development, or subdivision requirements. When the development purposes are not made known to the annexing agency, the

annexation shall be reviewed on the basis of the adopted plans and policies of the annexing agency. Nothing in this paragraph, however, shall be construed as prohibiting a commission from requiring, as a condition to annexation, that a city prezone the territory to be annexed provided that the commission shall not specify how, or in what manner, the territory shall be prezoned.

(4) The exclusion of territory from a city.

(5) The disincorporation of a city.

(6) The consolidation of two or more cities.

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

(b) To adopt procedures for the evaluation of proposals. The commission may adopt standards for any of the factors enumerated in Section 54796.

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

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

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

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

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

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

This section shall become operative January 1, 1988.

SEC. 3. Section 66452.6 of the Government Code is amended to read:

66452.6. (a) An approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 12 months.

(b) The period of time specified in subdivision (a) shall not include any period of time during which a development moratorium,

imposed after approval of the tentative map, is in existence, provided however, that the length of the moratorium does not exceed five years.

Once a moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(c) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction, if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures and other administrative requirements.

(d) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed with the legislative body pursuant to Section 66457 without first processing a new tentative map. Once a timely filing is made pursuant to Section 66457, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map.

(e) Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the time at which the map expires may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of three years. If the advisory agency denies a subdivider's application for extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(f) For purposes of this section, a development moratorium shall include a water or sewer moratorium or a water and sewer moratorium, as well as other actions of public agencies which regulate land use, development, or the provision of services to the land, other than the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a final or parcel map.

SEC. 3.5. Section 66452.6 of the Government Code is amended to

read:

66452.6. (a) An approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 12 months.

(b) The period of time specified in subdivision (a) shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence, provided however, that the length of the moratorium does not exceed five years.

Once a moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(c) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures and other administrative requirements.

(d) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed with the legislative body pursuant to Section 66457 without first processing a new tentative map. Once a timely filing is made pursuant to Section 66457, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map.

(e) Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the time at which the map expires may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of three years. If the advisory agency denies a subdivider's application for extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(f) For purposes of this section, a development moratorium shall

include a water or sewer moratorium or a water and sewer moratorium, as well as other actions of public agencies which regulate land use, development, or the provision of services to the land, other than the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a final or parcel map.

(g) The rights conferred by a vesting tentative map as provided by Chapter 4.5 (commencing with Section 66498.1) shall last for an initial time period as provided by ordinance but shall not be less than one year or more than two years beyond the recording of the final map. Where several final maps are recorded on various phases of a project covered by a single vesting tentative map, the one year initial time period shall begin for each phase when the final map for that phase is recorded.

The initial time period shall be automatically extended by any time used by the local agency for processing a complete application for a grading permit or for design or architectural review, if the time used by the local agency to process the application exceeds 30 days, from the date that a complete application is filed. Any time prior to the expiration of the initial time period provided by this section, the subdivider may apply for a one-year extension. If the extension is denied by an advisory agency, the subdivider may appeal that denial to the legislative body within 15 days.

(h) If the subdivider submits a complete application for a building permit during the periods of time specified in subdivision (g), the rights conferred by Chapter 4.5 (commencing with Section 66498.1) shall continue until the expiration of that permit, or any extension of that permit granted by the local agency.

SEC. 4. Section 66463.5 of the Government Code is amended to read:

66463.5. (a) When a tentative map is required, an approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 12 months.

(b) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no parcel map of all or any portion of the real property included within the tentative map shall be filed without first processing a new tentative map.

(c) Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the time at which the map expires may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of three years. If the advisory agency denies a subdivider's application for extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(d) The period of time specified in subdivision (a), including any

extension thereof granted pursuant to subdivision (c), shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction, if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures and other administrative requirements.

This section shall remain in effect only until January 1, 1985, and as of that date is repealed.

SEC. 5. Section 66463.5 is added to the Government Code, to read:

66463.5. (a) When a tentative map is required, an approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 12 months.

(b) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no parcel map of all or any portion of the real property included within the tentative map shall be filed without first processing a new tentative map.

(c) Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the time at which the map expires may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of three years. If the advisory agency denies a subdivider's application for extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(d) The period of time specified in subdivision (a) shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence, provided however, that the length of the moratorium does not exceed five years.

Once a moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(e) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (c), shall not include the period of time during which a lawsuit involving the

approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction, if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures, and other administrative requirements.

(f) For purposes of this section, a development moratorium shall include a water or sewer moratorium or a water and sewer moratorium, as well as other actions of public agencies which regulate land use, development, or the provision of services to the land, other than the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a parcel map.

(g) Notwithstanding subdivisions (a), (b), and (c), for the purposes of Chapter 4.5 (commencing with Section 66498.1), subdivisions (g) and (h) of Section 66452.6 shall apply to vesting tentative maps prepared in connection with a parcel map except that, for purposes of this section, the time periods specified in subdivisions (g) and (h) of Section 66452.6 shall be determined from the recordation of the parcel map instead of the final map. This subdivision shall become operative only if SB 1660 of the 1983–84 Regular Session is chaptered, in which case this subdivision shall become operative January 1, 1986.

This section shall become operative January 1, 1985.

SEC. 6. Section 3.5 of this bill incorporates amendments to Section 66452.6 of the Government Code proposed by both this bill and SB 1660. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, but this bill becomes effective first, (2) each bill amends Section 66452.6 of the Government Code, and (3) this bill is chaptered after SB 1660, in which case Section 66452.6 of the Government Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of Section 66452.6 of the Government Code as amended by SB 1660, at which time Section 3.5 of this bill shall become operative.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow the orderly filing of final subdivision maps and parcel maps and to avoid overburdening local agencies which must otherwise consider new tentative maps when previously approved tentative maps have expired during the pendency of unsuccessful

legal challenges, and in order that local agency formation commissions may evaluate forthcoming proposals in accordance with the authority prescribed by this act, it is necessary that this act take effect immediately.

CHAPTER 1303

An act to amend Section 54225 of, and to amend and repeal Section 54222 of, the Government Code, relating to surplus property.

[Approved by Governor September 19, 1984. Filed with Secretary of State September 20, 1984.]

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

SECTION 1. Section 54222 of the Government Code is amended to read:

54222. Any agency of the state and any local agency disposing of surplus land shall, prior to disposing of that property, send a written offer to sell or lease the property as follows:

(a) A written offer to sell or lease for the purpose of developing low- and moderate-income housing shall be sent to any local agencies including, but not limited to, housing authorities or redevelopment agencies within whose jurisdiction the surplus land is located.

(b) A written offer to sell or lease for park and recreational purposes or open-space purposes shall be sent:

(1) To any park or recreation department of any city within which the land may be situated.

(2) To any park or recreation department of the county within which the land is situated.

(3) To any regional park authority having jurisdiction within the area in which the land is situated.

(4) To the State Resources Agency or any agency which may succeed to its powers.

(c) A written offer to sell or lease for enterprise zone purposes any surplus property in an area designated as an enterprise zone pursuant to Section 7073 shall be sent to the nonprofit neighborhood enterprise association corporation in that zone.

(d) A written offer to sell or lease surplus land for school purposes shall be sent to any public school district within whose jurisdiction the surplus land is located.

(e) The entity or association desiring to purchase or lease the surplus land for low- and moderate-income housing purposes, or for park or recreation purposes, or for open-space purposes, or for enterprise zone purposes, shall notify in writing the disposing agency of its intent to purchase or lease the land within 60 days after receipt of the agency's notification of intent to sell the land.

This section shall remain in effect only until January 1, 1991, and

as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, pursuant to Section 9611, this section, as amended by Section 1 of Chapter 45 of the Statutes of 1984, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. Section 54225 of the Government Code is amended to read:

54225. Any public agency selling surplus land to an entity described in Section 54222 for park or recreation purposes, for open-space purposes, for school purposes, or for low- and moderate-income housing purposes may provide for a payment period of up to 20 years in any contract of sale or sale by trust deed of such land.

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

SEC. 4. (a) The provisions of this act shall only become operative if all of the following occur:

(1) Senate Bill 1686 is also chaptered, (2) SB 1686 amends Sections 11011.1 and 11011.9 of the Government Code, and (3) SB 1686 becomes effective on or before January 1, 1985.

(b) If any of the conditions set forth in subdivision (a) do not occur then this act shall not become operative.

CHAPTER 1304

An act to add Section 89528 to the Education Code, relating to postsecondary education.

[Approved by Governor September 19, 1984. Filed with Secretary of State September 20, 1984.]

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

SECTION 1. The Legislature finds and declares that there continues to be a problem at the California State University in recruiting and retaining competent faculty in certain high demand specialties because faculty salaries in those specialties have not been competitive with industry and other educational institutions. Without competent faculty in these specialties, the university is unable to provide high quality curricula to meet the course requirements of students.

SEC. 2. Section 89528 is added to the Education Code, to read:

89528. (a) In order to improve the recruitment and retention of faculty in specified academic disciplines, the trustees shall establish a supplemental salary program.

Each fiscal year, the trustees shall identify both of the following:

(1) Those academic disciplines for which recruiting and retaining competent faculty has been a problem because the faculty salaries generally applicable are not competitive with salaries offered by industry or by other educational institutions.

(2) Those faculty members in the academic disciplines identified pursuant to paragraph (1) who shall qualify for participation in the supplemental salary program.

The memorandum of understanding between the trustees and the appropriate faculty bargaining unit shall specify the implementation plan for the supplemental salary program.

(b) This section shall be operative only for those years in which the Budget Act appropriates funds specifically for the supplemental salary program pursuant to this section.

(c) If this section is in conflict with a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

CHAPTER 1305

An act to amend Section 11019.5 of the Government Code, to amend Sections 4700.1 and 4700.2 of the Penal Code, and to repeal Section 2 of Chapter 1671 of the Statutes of 1971, relating to costs of trial, and making an appropriation therefor.

[Approved by Governor September 19, 1984. Filed with Secretary of State September 20, 1984.]

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

SECTION 1. Section 11019.5 of the Government Code is amended to read:

11019.5. (a) Notwithstanding any other provision of law, but to the extent consistent with applicable federal law or regulation, any state department specified in subdivision (b), after receiving a request by a board of supervisors of an affected county which has a population of 150,000 or less as of January 1, 1983, and upon determining that advance payment is essential to the effective implementation of a particular program, and further to the extent that funds are available, and not more frequently than once each

month, may advance to the county an amount not to exceed one-twelfth of the annual allocations, subventions or reimbursements required for the delivery of services by a county.

(b) This section applies to the Department of Corrections, the Department of Health Services, and the State Department of Mental Health.

(c) The director of each department specified in subdivision (b) shall promulgate regulations and a plan to establish control procedures to define the scope of operational information required from a county in order to guarantee advance payments pursuant to this section. No county may receive an advance payment unless the county has complied with the provisions of the department's plan and regulations. Each department plan shall be approved by the Department of Finance prior to its implementation.

(d) Claim schedules for advance payments shall be presented to the appropriate department in the manner prescribed by the department. Payment of claims shall be made within 60 days after a claim is received by the department.

(e) Each department specified in subdivision (b) shall review periodically and adjust advances to actual expenditures for the claim period. Additionally, each department shall take into consideration the timing of the implementation of new programs in the computation of advances. The authority contained in this chapter shall not supersede or limit any other provision of law authorizing the state to conduct required audits of claims transactions.

(f) A county, upon determining that an advance payment is essential for the effective implementation of a particular program, and to the extent funds are available, and not more frequently than once each month, may advance to other affected local public agencies located within its jurisdiction (i.e., school districts, special districts, cities, etc.) an amount not to exceed one-twelfth of the annual allocations, reimbursements or subventions required for the delivery of services pursuant to related state and federal laws.

SEC. 2. Section 4700.1 of the Penal Code is amended to read:

4700.1. For any trial or hearing referred to in Section 4700, the sheriff of the county where such trial or hearing is had and the person in charge of the prison may agree that the county shall transport prisoners in a state prison to and from such prison. Upon such agreement, the county, and not the Department of Corrections, shall perform the transportation referred to in this section.

SEC. 3. Section 4700.2 of the Penal Code is amended to read:

4700.2. Whenever a trial is had in which a crime committed in furtherance of or in connection with a violation of Section 4530 of the Penal Code is charged, or whenever a trial is had for conspiracy in a case where one or more objectives of the conspiracy is an escape from the custody of the Department of Corrections, the county or counties in which the pretrial proceedings and trial are held shall prepare a statement of the costs incurred in connection with the trial. The statement of costs shall be approved by the presiding judge

of the superior court and shall include all costs incurred by the county including, but not limited to, salaries and expenses incurred by the district attorney in investigation and prosecution, by the sheriff in investigation and custody, by the public defender or court-appointed attorney or attorneys in investigation and defense, witness fees and expenses, reporter fees, transcription costs, necessary courtroom security reasonably required to protect the court and participants, and other direct trial costs. Trial shall be deemed to include all pretrial hearings and postconviction proceedings, if any.

The statement of costs shall be sent to the Controller who shall examine and audit it for the purpose of determining whether it complies with the provisions of this section. The Controller shall cause the amount of such costs as he or she determines comply with this section to be paid to the county out of appropriate funds. If sufficient funds are not available, the Controller shall request the Director of Finance to include any amounts necessary to satisfy the claims in a request for a deficiency appropriation. Any crime committed by an escaped prisoner within 10 days after the escape and within 100 miles of the facility from which the escape occurred shall be presumed to have been a crime committed in furtherance of escape for purposes of this section.

SEC. 4. Section 2 of Chapter 1671 of the Statutes of 1971 is repealed.

SEC. 5. The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the General Fund to the Department of Corrections for expenditure in the 1984–85 fiscal year in augmentation of, and for the purpose of paying claims filed pursuant to, Sections 4700.1 and 4700.2 of the Penal Code as provided in Item 5240-101-001 of the Budget Act of 1984.

CHAPTER 1306

An act to amend Section 1253.3 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 19, 1984. Filed with Secretary of State September 20, 1984.]

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

SECTION 1. Section 1253.3 of the Unemployment Insurance Code is amended to read:

1253.3. (a) Notwithstanding any other provision of this division, unemployment compensation benefits, extended duration benefits, and federal-state extended benefits are payable on the basis of service to which Section 3309(a)(1) of the Internal Revenue Code of 1954 applies, in the same amount, on the same terms, and subject

to the same conditions as the benefits payable on the basis of other service subject to this division, except as provided by this section.

(b) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, or of any federally operated school, with respect to service in an instructional, research, or principal administrative capacity for an educational institution shall not be payable to any individual with respect to any week which begins during the period between two successive academic years or terms or, when an agreement provides instead for a similar period between two regular but not successive terms, during that period, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual performs services in the first of the academic years or terms and if there is a contract or a reasonable assurance that the individual will perform services for any educational institution in the second of the academic years or terms.

(c) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, or of any federally operated school, with respect to service in any other capacity than specified in subdivision (b) for an educational institution shall not be payable to any individual with respect to any week which commences during a period between two successive academic years or terms if the individual performs the service in the first of the academic years or terms and there is a reasonable assurance that the individual will perform the service in the second of the academic years or terms, except that the individual shall be entitled to a retroactive payment of benefits for each week for which benefits are denied solely by reason of this subdivision commencing with the week during which a timely claim for benefits is filed, if the individual is not offered an opportunity to perform the services for the educational institution for the second of the academic years or terms, and if the individual is otherwise eligible except for the requirement that he or she file a claim for each week benefits are claimed. A claim for retroactive benefits may be made no later than 30 days following the commencement of the second academic year or term.

(d) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, or of any federally operated school, with respect to services specified by subdivision (b) or (c), shall not be payable to any individual with respect to any week which commences during an established and customary vacation period or holiday recess if the individual performs the services in the period immediately before the vacation period or holiday recess, and there is a reasonable assurance that the individual will perform the services in the period immediately following the vacation period or holiday recess.

(e) For purposes of this section, "reasonable assurance" includes, but is not limited to, an offer of employment or assignment made by

the educational institution, provided that the offer or assignment is not contingent on enrollment, funding, or program changes. An individual who has been notified that he or she will be replaced and does not have an offer of employment or assignment to perform services for an educational institution is not considered to have reasonable assurance.

(f) For purposes of this section, if the time for service performed during the period of and pursuant to any contract for any academic year or term by an individual for any employing unit as specified in subdivision (b) or (c) constitutes one-half or more of the time in total service performed for the employing unit by the individual during that same period for remuneration, all the services of the individual for the employing unit for that period shall be deemed subject to the benefit payment restriction provisions of this section.

(g) Subdivisions (b), (c), and (d) do not apply to nonprofessional workers employed by the Fremont or Riverside campus of the California School for the Deaf, the Fremont campus of the California School for the Blind, or the diagnostic schools for the neurologically handicapped located in Los Angeles, San Francisco, and Fresno. These nonprofessional workers are not defined as school employees.

(h) Any public entity as defined by Section 605, with respect to any individual performing a service in any other capacity other than specified in subdivision (b) for an educational institution, shall provide a written statement indicating the following to the individual no later than 30 days before the end of the first of the academic years or terms:

(1) Whether or not there is a reasonable assurance of reemployment.

(2) Whether or not it is stated that the individual has no reasonable assurance of reemployment, that the individual should file a claim for benefits at the close of the academic year or term.

(3) If it is stated that the individual has reasonable assurance of reemployment, the written statement shall also inform the employee that he or she may file a claim for benefits and that the determination for eligibility for benefits is made by the Employment Development Department and not by the employer.

(4) If it is stated that the individual has reasonable assurance of reemployment, that the individual shall be entitled to a retroactive payment of benefits if the individual is not offered an opportunity to perform the services for the educational institution for the second of the academic years or terms, if the individual is otherwise eligible except for the requirement that he or she file a claim for each week benefits are claimed, and if a claim for retroactive benefits is made no later than 30 days following the commencement of the second academic year or term.

SEC. 2. Section 1253.3 of the Unemployment Insurance Code is amended to read:

1253.3. (a) Notwithstanding any other provision of this division, unemployment compensation benefits, extended duration benefits,

and federal-state extended benefits are payable on the basis of service to which Section 3309(a) (1) of the Internal Revenue Code of 1954 applies, in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other service subject to this division, except as provided by this section.

(b) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, or of any federally operated school, with respect to service in an instructional, research, or principal administrative capacity for an educational institution are not be payable to any individual with respect to any week which begins during the period between two successive academic years or terms or, when an agreement provides instead for a similar period between two regular but not successive terms, during that period, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual performs services in the first of the academic years or terms and if there is a contract or a reasonable assurance that the individual will perform services for any educational institution in the second of the academic years or terms.

(c) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, or of any federally operated school, with respect to service in any other capacity than specified in subdivision (b) for an educational institution shall not be payable to any individual with respect to any week which commences during a period between two successive academic years or terms if the individual performs the service in the first of the academic years or terms and there is a reasonable assurance that the individual will perform the service in the second of the academic years or terms, except that the individual shall be entitled to a retroactive payment of benefits for each week for which benefits are denied solely by reason of this subdivision commencing with the week during which a timely claim for benefits is filed, if the individual is not offered an opportunity to perform the services for an educational institution for the second of the academic years or terms, the individual is otherwise eligible except for the requirement that he or she file a claim for each week benefits are claimed. A claim for retroactive benefits may be made no later than 30 days following the commencement of the second academic year or term.

(d) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, or of any federally operated school, with respect to services specified by subdivision (b) or (c), are not payable to any individual with respect to any week which commences during an established and customary vacation period or holiday recess if the individual performs the services in the period immediately before the vacation period or holiday recess, and there is a reasonable assurance that the individual will perform the services in the period immediately following the vacation period or holiday

recess.

(e) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, are not payable during the periods of time, and subject to the same conditions, contained in subdivisions (b), (c), (d), and (g), if the services are provided to, or on behalf of, an educational institution.

(f) For purposes of this section, "reasonable assurance" includes, but is not limited to, an offer of employment or assignment made by the educational institution, provided that the offer or assignment is not contingent on enrollment, funding, or program changes. An individual who has been notified that he or she will be replaced and does not have an offer of employment or assignment to perform services for an educational institution is not considered to have reasonable assurance.

(g) For purposes of this section, if the time for service performed during the period of and pursuant to any contract for any academic year or term by an individual for any employing unit as specified in subdivision (b) or (c) constitutes one-half or more of the time in total service performed for the employing unit by the individual during that same period for remuneration, all the services of the individual for the employing unit for that period shall be deemed subject to the benefit payment restriction provisions of this section.

(h) Subdivisions (b), (c), (d), and (e) do not apply to nonprofessional workers employed by the Fremont or Riverside campus of the California School for the Deaf, the Fremont campus of the California School for the Blind, or the diagnostic schools for the neurologically handicapped located in Los Angeles, San Francisco, and Fresno. These nonprofessional workers are not defined as school employees.

(i) Any public entity as defined by Section 605, with respect to any individual performing a service in any other capacity other than specified in subdivision (b) for an educational institution, shall provide a written statement indicating the following to the individual no later than 30 days before the end of the first of the academic years or terms:

(1) Whether or not there is a reasonable assurance of reemployment.

(2) Whether or not it is stated that the individual has no reasonable assurance of reemployment, that the individual should file a claim for benefits at the close of the academic year or term.

(3) If it is stated that the individual has reasonable assurance of reemployment, the written statement shall also inform the employee that he or she may file a claim for benefits and that the determination for eligibility for benefits is made by the Employment Development Department and not by the employer.

(4) If it is stated that the individual has reasonable assurance of reemployment, that the individual shall be entitled to a retroactive payment of benefits if the individual is not offered an opportunity to

perform the services for the educational institution for the second of the academic years or terms, if the individual is otherwise eligible and he or she filed a claim for each week benefits are claimed, and if a claim for retroactive benefits is made no later than 30 days following the commencement of the second academic year or term.

SEC. 3. Section 1253.3 of the Unemployment Insurance Code is amended to read:

1253.3. (a) Notwithstanding any other provision of this division, unemployment compensation benefits, extended duration benefits, and federal-state extended benefits are payable on the basis of service to which Section 3309(a)(1) of the Internal Revenue Code of 1954 applies, in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other service subject to this division, except as provided by this section.

(b) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, or of any federally operated school, with respect to service in an instructional, research, or principal administrative capacity for an educational institution are not be payable to any individual with respect to any week which begins during the period between two successive academic years or terms or, when an agreement provides instead for a similar period between two regular but not successive terms, during that period, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual performs services in the first of the academic years or terms and if there is a contract or a reasonable assurance that the individual will perform services for any educational institution in the second of the academic years or terms.

(c) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, or of any federally operated school, with respect to service in any other capacity than specified in subdivision (b) for an educational institution shall not be payable to any individual with respect to any week which commences during a period between two successive academic years or terms if the individual performs the service in the first of the academic years or terms and there is a reasonable assurance that the individual will perform the service in the second of the academic years or terms. However, if the individual was not offered an opportunity to perform the services for an educational institution for the second of the academic years or terms, the individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this subdivision. Retroactive benefits shall be claimned in accordance with the department's procedures which shall specify that except where the individual was entitled to benefits based on services performed for other than an educational institution, an individual who has a reasonable assurance of reemployment may satisfy the search for work requirement of

subdivision (e) of Section 1253, by registering for work pursuant to subdivision (b) of Section 1253 during the period between the first and second academic terms or years. A claim for retroactive benefits may be made no later than 30 days following the commencement of the second academic year or term.

(d) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, or of any federally operated school, with respect to services specified by subdivision (b) or (c), are not payable to any individual with respect to any week which commences during an established and customary vacation period or holiday recess if the individual performs the services in the period immediately before the vacation period or holiday recess, and there is a reasonable assurance that the individual will perform the services in the period immediately following the vacation period or holiday recess.

(e) With respect to any services specified by subdivision (b) or (c), compensation payable on the basis of services in any such capacity may be denied as specified in subdivision (b), (c), or (d) to any individual who performed the services in an educational institution while in the employ of an educational service agency, and for this purpose the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing the services to one or more educational institutions.

(f) For purposes of this section, "reasonable assurance" includes, but is not limited to, an offer of employment or assignment made by the educational institution, provided that the offer or assignment is not contingent on enrollment, funding, or program changes. An individual who has been notified that he or she will be replaced and does not have an offer of employment or assignment to perform services for an educational institution is not considered to have reasonable assurance.

(g) For purposes of this section, if the time for service performed during the period of and pursuant to any contract for any academic year or term by an individual for any employing unit as specified in subdivision (b) or (c) constitutes one-half or more of the time in total service performed for the employing unit by the individual during that same period for remuneration, all the services of the individual for the employing unit for that period shall be deemed subject to the benefit payment restriction provisions of this section.

(h) Subdivisions (b), (c), and (d) of this section shall not apply to nonprofessional workers employed by the Fremont or Riverside campus of the California School for the Deaf, the Fremont campus of the California School for the Blind, or the diagnostic schools for the neurologically handicapped located in Los Angeles, San Francisco, and Fresno. These nonprofessional workers are not defined as school employees.

(i) Any public entity as defined by Section 605, with respect to any

individual performing a service in any other capacity other than specified in subdivision (b) for an educational institution, shall provide a written statement indicating the following to the individual no later than 30 days before the end of the first of the academic years or terms:

(1) Whether or not there is a reasonable assurance of reemployment.

(2) Whether or not it is stated that the individual has no reasonable assurance of reemployment, that the individual should file a claim for benefits at the close of the academic year or term.

(3) If it is stated that the individual has reasonable assurance of reemployment, the written statement shall also inform the employee that he or she may file a claim for benefits and that the determination for eligibility for benefits is made by the Employment Development Department and not by the employer.

(4) If it is stated that the individual has reasonable assurance of reemployment, that the individual shall be entitled to a retroactive payment of benefits if the individual is not offered an opportunity to perform the services for the educational institution for the second of the academic years or terms, if the individual is otherwise eligible and he or she filed a claim for each week benefits are claimed, and if a claim for retroactive benefits is made no later than 30 days following the commencement of the second academic year or term.

SEC. 4. Section 1253.3 of the Unemployment Insurance Code is amended to read:

1253.3. (a) Notwithstanding any other provision of this division, unemployment compensation benefits, extended duration benefits, and federal-state extended benefits are payable on the basis of service to which Section 3309(a)(1) of the Internal Revenue Code of 1954 applies, in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other service subject to this division, except as provided by this section.

(b) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, or of any federally operated school, with respect to service in an instructional, research, or principal administrative capacity for an educational institution are not be payable to any individual with respect to any week which begins during the period between two successive academic years or terms or, when an agreement provides instead for a similar period between two regular but not successive terms, during that period, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual performs services in the first of the academic years or terms and if there is a contract or a reasonable assurance that the individual will perform services for any educational institution in the second of the academic years or terms.

(c) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, or of any federally operated school,

with respect to service in any other capacity than specified in subdivision (b) for an educational institution shall not be payable to any individual with respect to any week which commences during a period between two successive academic years or terms if the individual performs the service in the first of the academic years or terms and there is a reasonable assurance that the individual will perform the service in the second of the academic years or terms . However, if the individual was not offered an opportunity to perform the services for an educational institution for the second of the academic years or terms, the individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this subdivision. Retroactive benefits shall be claimed in accordance with the department's procedures which shall specify that except where the individual was entitled to benefits based on services performed for other than an educational institution, an individual who has a reasonable assurance of reemployment may satisfy the search for work requirement of subdivision (e) of Section 1253, by registering for work pursuant to subdivision (b) of Section 1253 during the period between the first and second academic terms or years. A claim for retroactive benefits may be made no later than 30 days following the commencement of the second academic year or term.

(d) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, or of any federally operated school, with respect to services specified by subdivision (b) or (c), are not payable to any individual with respect to any week which commences during an established and customary vacation period or holiday recess if the individual performs the services in the period immediately before the vacation period or holiday recess, and there is a reasonable assurance that the individual will perform the services in the period immediately following the vacation period or holiday recess.

(e) With respect to any services specified by subdivision (b) or (c), compensation payable on the basis of services in any such capacity may be denied as specified in subdivision (b), (c), or (d) to any individual who performed the services in an educational institution while in the employ of an educational service agency, and for this purpose the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing the services to one or more educational institutions.

(f) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, are not payable during the periods of time, and subject to the same conditions, contained in subdivisions (b), (c), (d), and (h), if the services are provided to, or on behalf of, an educational institution.

(g) For purposes of this section, "reasonable assurance" includes, but is not limited to, an offer of employment or assignment made by the educational institution, provided that the offer or assignment is not contingent on enrollment, funding, or program changes. An individual who has been notified that he or she will be replaced and does not have an offer of employment or assignment to perform services for an educational institution is not considered to have reasonable assurance.

(h) For purposes of this section, if the time for service performed during the period of and pursuant to any contract for any academic year or term by an individual for any employing unit as specified in subdivision (b) or (c) constitutes one-half or more of the time in total service performed for the employing unit by the individual during that same period for remuneration, all the services of the individual for the employing unit for that period shall be deemed subject to the benefit payment restriction provisions of this section.

(i) Subdivisions (b), (c), (d), and (f) do not apply to nonprofessional workers employed by the Fremont or Riverside campus of the California School for the Deaf, the Fremont campus of the California School for the Blind, or the diagnostic schools for the neurologically handicapped located in Los Angeles, San Francisco, and Fresno. These nonprofessional workers are not defined as school employees.

(j) Any public entity as defined by Section 605, with respect to any individual performing a service in any other capacity other than specified in subdivision (b) for an educational institution, shall provide a written statement indicating the following to the individual no later than 30 days before the end of the first of the academic years or terms:

(1) Whether or not there is a reasonable assurance of reemployment.

(2) Whether or not it is stated that the individual has no reasonable assurance of reemployment, that the individual should file a claim for benefits at the close of the academic year or term.

(3) If it is stated that the individual has reasonable assurance of reemployment, the written statement shall also inform the employee that he or she may file a claim for benefits and that the determination for eligibility for benefits is made by the Employment Development Department and not by the employer.

(4) If it is stated that the individual has reasonable assurance of reemployment, that the individual shall be entitled to a retroactive payment of benefits if the individual is not offered an opportunity to perform the services for the educational institution for the second of the academic years or terms, if the individual is otherwise eligible and he or she filed a claim for each week benefits are claimed, and if a claim for retroactive benefits is made no later than 30 days following the commencement of the second academic year or term.

SEC. 3. (a) Section 2 of this bill incorporates amendments to Section 1253.3 of the Unemployment Insurance Code proposed by

both this bill and AB 3899. It shall only become operative if (1) both bills are enacted and become effective January 1, 1985, (2) each bill amends Section 1253.3 of the Unemployment Insurance Code, and (3) SB 1671 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 3899, in which case Sections 1, 3, and 4 of this bill shall not become operative.

(b) Section 3 of this bill incorporates amendments to Section 1253.3 of the Unemployment Insurance Code proposed by both this bill and SB 1671. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 1253.3 of the Unemployment Insurance Code, (3) AB 3899 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1671 in which case Section 1253.3 of the Unemployment Insurance Code, as amended by Section 3 of SB 1671, shall remain operative only until the operative date of this bill, at which time Section 3 of this bill shall become operative and Sections 1, 2, and 4 of this bill shall not become operative.

(c) Section 4 of this bill incorporates amendments to Section 1253.3 of the Unemployment Insurance Code proposed by this bill, AB 3899, and SB 1671. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1985, (2) all three bills amend Section 1253.3 of the Unemployment Insurance Code, and (3) this bill is enacted after AB 3899 and SB 1671, in which case Section 1253.3 of the Unemployment Insurance Code, as amended by Section 3 of SB 1671, shall remain operative only until the operative date of this bill at which time Section 4 of this bill shall become operative and Sections 1, 2, and 3 of this bill shall not become operative.

CHAPTER 1307

An act to add Article 8 (commencing with Section 22860) to Chapter 1 of Part 5 of Division 5 of Title 2 of the Government Code, relating to public employees' health care, and making an appropriation therefor.

[Approved by Governor September 19, 1984 Filed with Secretary of State September 20, 1984.]

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

SECTION 1. Article 8 (commencing with Section 22860) is added to Chapter 1 of Part 5 of Division 5 of Title 2 of the Government Code, to read:

Article 8. Employees Stationed Out of State

22860. For purposes of this article "out-of-state employee" means any employee permanently assigned to perform his or her duties outside of the state.

22861. An out-of-state employee eligible to enroll under this part shall be eligible to receive the benefits provided by this part or, at his or her election and in accordance with such reasonable rules as the board may prescribe, to receive the benefits provided by this article.

22862. An out-of-state employee may enter into a group plan provided by an out-of-state health maintenance organization, group insurance policy, group service agreement, membership or subscription contract, or other similar group arrangement provided by a carrier for the purpose of providing, arranging, paying for, or reimbursing the cost of basic hospital and medical care and for major medical or other comprehensive benefit plans to persons and their dependents and which is established and in operation in the community or area where the employee's duties are usually performed. These contracts, plans, agreements, arrangements, or policies shall meet with the approval of, or meet standards approved by, the board.

22863. When an out-of-state employee is enrolled in any plan, policy, contract, service agreement, or arrangement described in Section 22862 and elects to receive the benefits provided by this article, the State of California and the employee shall contribute and disburse a portion of the cost of providing the benefit coverage in the same amounts and in a like manner as is provided for contributions, withholdings, appropriations and payments for health benefit plans under Sections 22825.1, 22826, 22827, 22828, 22829, and 22841. Disbursements may be made to any person, association, corporation, insurer, or other entity responsible for providing the benefit coverage, except that the state shall make no contribution to the State Employees' Contingency Reserve Fund, for other than administrative expense, with respect to such employee and said fund shall not be available to any extent or for any purpose other than payment of costs of administration with respect to such employee or the plan, policy, contract, service agreement, or arrangement in which he or she is enrolled under this article.

22864. When an employee receiving benefits under this article is permanently reassigned to perform his duties within the state, the benefits may be continued only until the employee has had reasonable opportunity to become eligible to participate in the benefits provided by this part other than the benefits provided by this article.

22864.1. When an employee, receiving benefits under this article, retires, he or she shall change his enrollment within 60 days to a plan contracted for by the state in order for health benefits to continue.

22865. From the General Fund in the State Treasury, there is

hereby appropriated monthly the state's contributions for out-of-state employees under this article for all of the following:

(a) All employees whose compensation is paid from the General Fund.

(b) All employees whose compensation is paid from funds of, or funds appropriated to, the University of California.

(c) All employees who are employed by the State Department of Education and whose compensation is paid from the Vocational Education Fund, the Vocational Rehabilitation Fund, or any other fund received, in whole or in part, as a donation to the state under restrictions preventing its use for such contributions.

(d) All employees whose compensation is paid from the Senate Contingent Fund or Assembly Contingent Fund.

22866. From every other fund in the State Treasury, there is hereby appropriated monthly the state's contribution required under this article for all employees whose compensation is paid from each fund, and in respect to these employees, the state's contribution is not required to be made from the General Fund.

CHAPTER 1308

An act to amend Sections 22703, 24200, 24200.1, 24200.2, 24203, 24205, and 24206 of, and to add Section 24206.5 to, the Education Code, relating to public employee retirement.

[Approved by Governor September 19, 1984. Filed with Secretary of State September 20, 1984.]

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

SECTION 1. Section 22703 of the Education Code is amended to read:

22703. Persons employed on a part-time basis, including persons employed in night schools and adult education programs, shall receive credit for time served in the proportion that the salary earned bears to the salary which would have been earned if employed full time. When a person is employed in kindergarten to grade twelve, inclusive, on an hourly or daily basis, full-time employment shall be considered as one hundred seventy-five (175) days or one thousand fifty (1,050) hours if the service is confined to a school term, or two hundred sixty (260) days or one thousand five hundred sixty (1,560) hours if the service extends for a full school year. When a person is employed in grades 13 and 14 on an hourly or daily basis, full-time employment shall be considered as the number of days of service required by the district to be performed by its full-time employees in a school year and employees employed on an hourly or daily basis shall receive credit for time served in the proportion that the total hourly or daily service rendered in a school

year bears to the full-time employment for that school year. The board shall make equitable adjustments for service which extends for a period greater than a school term but less than a school year.

SEC. 2. Section 24200 of the Education Code, as amended by Chapter 308 of the Statutes of 1984, is amended to read:

24200. Any member prior to the effective date of the member's retirement may elect an option which is an actuarially modified retirement allowance payable throughout the life of the member and his or her option beneficiary as follows:

(a) Option 2. Upon the retirant's death, the modified retirement allowance equal to the modified amount the retirant was receiving shall be paid to the option beneficiary; or

(b) Option 3. Upon the retirant's death, one-half of the modified retirement allowance the retirant was receiving shall be paid to the option beneficiary; or

(c) Option 4. The modified retirement allowance shall be paid to the retirant so long as both the retirant and the option beneficiary are living. Upon the death of either the retirant or the option beneficiary, two-thirds of the modified retirement allowance shall be paid to the surviving retirant or the surviving option beneficiary; or

(d) Option 5. The modified retirement allowance shall be paid to the retirant so long as both the retirant and the option beneficiary are living. Upon the death of either the retirant or the option beneficiary, one-half of the modified retirement allowance shall be paid to the surviving retirant or surviving option beneficiary.

The option beneficiary, for purposes of this section, shall have been nominated by the retirant by written designation duly executed and filed with the system at the time of the member's retirement.

A member may revoke or change his or her election of an option at any time prior to the effective date of the member's retirement.

SEC. 3. Section 24200.1 of the Education Code is amended to read:

24200.1. A retirant may cancel the option elected as provided in Section 24200 if the option beneficiary is the retirant's spouse or former spouse in the event a final decree of dissolution of marriage or a judgment of nullity has been entered or an order of separate maintenance has been made on or after January 1, 1978, by a court of competent jurisdiction. A retirant may make such cancellation before or after the first retirement allowance check.

The retirant must notify the board in writing, and notification shall not be sooner than the effective date of the judgment or order and shall include a certified copy of the final decree of dissolution or judgment of nullity, or an order of separate maintenance, and any property settlement agreement.

Upon notification to the board, the retirant may elect (1) to receive the unmodified retirement benefit from the date of receipt of notification, or; (2) a new joint and survivor option under Section 24200, naming a new option beneficiary. The modification of the retirement allowance under the new option elected shall be based

on the ages of the retirant and the nominated option beneficiary at the date the election was received; provided, that a retirant may not elect a joint and survivor option that would result in any additional liability to the fund. Such election shall be consistent with the final judgment or property settlement agreement.

SEC. 4. Section 24200.2 of the Education Code is amended to read:

24200.2. A retirant may name a new beneficiary and select a second joint and survivor option described in Section 24200 in the event the beneficiary selected at the time of retirement predeceases the retirant.

The effective date of the election of the new joint and survivor option shall be one year following the date notification is received by the board, provided both the retirant and the nominated option beneficiary are then living. Such notification shall include a certified copy of the death certificate of the predeceased beneficiary and a properly executed form for the new joint and survivor option.

The selection of the new joint and survivor option under this section and Section 24200 is subject to an actuarial modification in the amount of the retirement allowance; provided, that a retirant may not elect a joint and survivor option that would result in any additional liability to the fund.

SEC. 5. Section 24203 of the Education Code is amended to read:

24203. Any member who has qualified to make application for retirement allowance under Section 23901 may elect, as provided in Section 24200, and except as provided in Section 24200.1, without right of revocation or change after the effective date of his or her retirement, to receive an actuarially modified retirement allowance as of the date of retirement, of the retirement allowance payable to the member when and if the member retires for service in a modified retirement allowance according to the provisions of Section 24200. If the death of such member occurs after the date upon which the election has been signed, then the election shall be in full force and effect. The election shall be void if not received in the system's office in Sacramento within 30 days after the date of signature.

Upon such member's death, prior to the effective date of retirement, the beneficiary who was nominated under the option elected and who survives shall receive an allowance calculated under such option, upon the assumption that such member retired on the date of death. The payment of such allowance to the beneficiary shall be in lieu of the family allowance provided in Section 23804 and the payment provided in subdivision (a) of Section 23801, except that if the beneficiary dies before all accumulated contributions are paid the balance if any shall be paid to the estate of the person last receiving or entitled to receive the allowance. The accumulated annuity deposit contributions and the death payment provided in Section 23800, shall be paid the designated beneficiary in a lump sum.

If the member subsequently retires, regardless of whether the beneficiary nominated under the option elected is then living, a

reduced retirement allowance computed under Section 24200 and the option elected shall be paid.

The amount of the retirement allowance prior to applying the option factor shall be calculated at the member's age at death before retirement, or age on the last day of the month in which the member requested retirement be effective, as the case may be. The modification of such retirement allowance under the option elected shall be based on the ages of such member and the beneficiary nominated under such option, at the date the election was signed.

Any member reinstated to membership pursuant to Section 23913 is not eligible to file a preretirement election of an option until one year after the date of reinstatement.

SEC. 6. Section 24205 of the Education Code is amended to read:

24205. If a member cancels the election made in Section 24203, written cancellation must be received by the board on or before the day preceding the effective date of retirement. Regardless of how the member elects to receive his or her retirement allowance, such allowance shall be reduced by one-half of 1 percent for each year or partial year that Option 3 or Option 5 is in effect under Section 24203, or by six-tenths of 1 percent for each year that Option 4 is in effect under Section 24203, or by three-fourths of 1 percent for each year or partial year that Option 2 is in effect under Section 24203.

SEC. 7. Section 24206 of the Education Code is amended to read:

24206. If a member cancels an election under Section 24203, the member may again elect an option under the provisions of that section. If the member elects to change an option during any year, the reduction for that year will be that for the option to which the greater reduction under Section 24205 is applicable.

SEC. 8. Section 24206.5 is added to the Education Code, to read:

24206.5. A member who has a preretirement election of an option in effect on December 31, 1984, may change his or her preretirement election of Option 2 or Option 3 to either Option 4 or Option 5 without the allowance reduction prescribed in Sections 24205 and 24206 provided the change is made on or after January 1, 1985, and prior to January 1, 1986, and prior to his or her retirement.

SEC. 9. The amendments made to Section 22703 by this act shall be construed to apply prospectively only and shall not be construed to apply to any service rendered prior to the effective date of this act.

SEC. 10. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1309

An act to amend Section 1502 of the Health and Safety Code, and to add Sections 5458.1 and 5458.2 to the Welfare and Institutions Code, relating to community care facilities.

[Approved by Governor September 19, 1984. Filed with Secretary of State September 20, 1984.]

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

SECTION 1. Section 1502 of the Health and Safety Code is amended to read:

1502. As used in this chapter:

(a) "Community care facility" means any facility, place, or building which is maintained and operated to provide nonmedical residential care, day care, or homefinding agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, or incompetent persons, and includes the following:

(1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) "Residential care facility for the elderly" means a group housing arrangement chosen voluntarily by residents who are over 62 years of age and who are provided varying levels of supportive services or care, as agreed upon at the time of admission, based upon their varying needs.

(3) "Day care center" means any facility which provides nonmedical care to persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

(4) "Homefinding agency" means any individual or organization engaged in finding homes or other places for placement of persons of any age for temporary or permanent care or adoption.

(5) "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children which is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. Such placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian.

(6) "Small family home" means any residential facility providing 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities.

(7) "Social rehabilitation facility" means any residential facility

which provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. To be eligible to be licensed as a social rehabilitation facility, a facility shall meet the program standards established by the State Department of Mental Health pursuant to Section 5458.1 of the Welfare and Institutions Code.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

(b) "Department" or "state department" means the State Department of Social Services.

(c) "Director" means the Director of Social Services.

SEC. 1.5. Section 1502 of the Health and Safety Code is amended to read:

1502. As used in this chapter:

(a) "Community care facility" means any facility, place, or building which is maintained and operated to provide nonmedical residential care, adult day care, or homefinding agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, or incompetent persons, and includes the following:

(1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) "Residential care facility for the elderly" means a group housing arrangement chosen voluntarily by residents who are over 62 years of age and who are provided varying levels of supportive services or care, as agreed upon at the time of admission, based upon their varying needs.

(3) "Adult day care facility" means any facility which provides nonmedical care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

(4) "Homefinding agency" means any individual or organization engaged in finding homes or other places for placement of persons of any age for temporary or permanent care or adoption.

(5) "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children which is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. Such placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian.

(6) "Small family home" means any residential facility providing 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities.

(7) "Social rehabilitation facility" means any residential facility which provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to Section 5458.1.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

(b) "Department" or "state department" means the State Department of Social Services.

(c) "Director" means the Director of Social Services.

SEC. 2. Section 5458.1 is added to the Welfare and Institutions Code, to read:

5458.1. The State Department of Mental Health shall establish, by regulation, standards for the programs listed in subdivisions (a), (b), and (c) of Section 5458. These standards shall also be applied by the department to any facility licensed as a social rehabilitation facility pursuant to paragraph (7) of subdivision (a) of Section 1502 of the Health and Safety Code. The public comment period on the adoption of the regulations required by this section shall commence not later than November 1, 1985.

In establishing the standards required by this section, the State Department of Mental Health shall not establish standards which in themselves impose any new or increased costs on the programs or facilities affected by the standards.

SEC. 3. Section 5458.2 is added to the Welfare and Institutions Code, to read:

5458.2. Nothing in Section 5458 limits the authority of the State Department of Mental Health to delegate the evaluation and enforcement of the program standards to a county mental health program when a licensed social rehabilitation facility has a contractual relationship with a county mental health program and the county has requested the delegation.

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

SEC. 5. Notwithstanding Section 2231.5 of the Revenue and

Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 6. Section 1.5 of this bill incorporates amendments to Section 1502 of the Health and Safety Code proposed by both this bill and SB 1754. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 1502 of the Health and Safety Code, and (3) this bill is enacted after SB 1754, in which case Section 1 of this bill shall not become operative.

CHAPTER 1310

An act to amend Section 34312.3 of the Health and Safety Code, relating to housing authorities.

[Approved by Governor September 19, 1984. Filed with Secretary of State September 20, 1984.]

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

SECTION 1. Section 34312.3 of the Health and Safety Code is amended to read:

34312.3. (a) Subject to the requirements of subdivisions (c) and (d) and of Article 5 (commencing with Section 34350), an authority may do any of the following:

(1) Issue revenue bonds for the purpose of financing the construction or development of multifamily rental housing and for the provision of capital improvements in connection with and determined necessary to such multifamily rental housing.

(2) Make or undertake commitments to make construction loans and mortgage loans to finance the development of multifamily rental housing.

(3) Purchase or undertake, directly or indirectly through lending institutions, commitments to purchase, construction loans, and mortgage loans originated in accordance with a financing agreement with the authority to finance the development of multifamily rental housing or make loans to lending institutions under terms and conditions which, in addition to other provisions determined by the authority, shall require the lending institutions to use the net proceeds of the loans for the making, directly or indirectly, of construction loans or mortgage loans to finance the development of multifamily rental housing.

(b) An authority may develop, rehabilitate, or finance housing projects or participate in the development, rehabilitation, or financing of housing projects; or purchase, sell, lease, own, operate, or manage housing projects so assisted, subject to all of the requirements of subdivisions (c) and (d).

So long as the proceeds of any sale, lease, or other disposition of real property, net of the cost of sale, is to be used directly to assist a housing project pursuant to this section for persons of low income, an authority may, after a public hearing, sell, lease, or otherwise dispose of the real property without complying with any provision of law concerning disposition of surplus property, including but not limited to, Sections 34315.5 and 34315.7.

An authority may convey surplus lands it acquires from another public agency to a nonprofit or private developer for development of single-family homes where the development will provide for homeownership for low- and moderate-income persons and families, as defined in Section 50093. This conveyance shall be after a public hearing. With the exception of subdivisions (b), (c), and (d) of Section 34315.7, the conveyance need not comply with any law concerning the disposition of surplus properties, including, but not limited to, Section 34315.5 or subdivision (a) of Section 34315.7. The proceeds of any sale or other disposition of surplus land, net of the cost of sale, shall be used to assist a housing project pursuant to this section for persons of low income.

(c) (1) For the periods required by Section 103 (b) (12) (B) of the Internal Revenue Code of 1954, as amended, not less than 20 percent of all units in housing projects assisted by an authority pursuant to this section shall be available for occupancy on a priority basis to low-income households. In the case of housing projects located within a targeted area, as defined by Section 1103 (b) of the Mortgage Subsidy Bond Tax Act of 1980, not less than 15 percent of all units in such housing projects assisted pursuant to this section shall be for occupancy on a priority basis by low-income households.

(2) To the extent economically feasible, as determined in the sole discretion of the authority, whose determination shall be final and conclusive, half of the units described in paragraph (1) of subdivision (c) above shall be for occupancy on a priority basis by individuals and families whose adjusted gross income does not exceed 50 percent of the median adjusted gross income for the area, as median adjusted gross income may, from time to time, be determined pursuant to Section 8 of the United States Housing Act of 1937. In determining the economic feasibility of meeting this requirement, the authority shall consider (i) the availability of rent subsidies or other financial aid from federal, state, or local government; (ii) the ability to secure density bonuses, reductions in land use requirements, expedited processing, or other procedural incentives from local government; and (iii) the ability to obtain a reduction in rents to the fair market rent level or below for existing housing pursuant to Section 8 of the United States Housing Act of 1937 or a successor federal program (the "Section 8 program") in units to be occupied by very low income households by imposing higher rents in other units.

(3) Any indebtedness incurred pursuant to a mortgage loan financed under the terms of this chapter shall be subject to acceleration and the balance owing declared immediately due and

payable upon any sale of an owner-occupied residence to a purchaser who does not meet the required qualifications for borrowers as established by the authority.

(4) The authority shall require the owners of housing projects assisted pursuant to this section to accept as tenants, on the same basis as all other prospective tenants, in the units reserved for very low income households, any very low income households who are recipients of federal certificates for rent subsidies pursuant to the existing program under Section 8 of the United States Housing Act of 1937 or its successor. The authority shall not permit a selection criteria to be applied to Section 8 certificate holders that is any more burdensome than the criteria applied to all other prospective tenants.

(5) No resident in housing units assisted pursuant to this section shall be denied continued occupancy or ownership because, after admission, the resident's family income increases to exceed the eligibility level. However, the authority shall ensure that percentage requirements of this section shall continue to be met by providing the next available unit or units to persons of low income or by taking other actions to satisfy the percentage requirements of this section.

(6) In determining whether the percentage requirements of subdivision (c) have been achieved, the following terms and conditions shall be applied:

(A) The requirement that 20 percent or 15 percent, as the case may be, of the housing units assisted by an authority pursuant to this section shall be available on a priority basis to, or occupied by, households whose adjusted gross income does not exceed the applicable limits prescribed by subdivision (c) shall apply to the aggregate number of units assisted by an authority pursuant to this section.

(B) The provisions of this section shall apply only to housing units first assisted after January 1, 1983, and the percentage requirements of subdivision (c) shall be complied with by January 1, 1986, and on January 1 of each even-numbered year thereafter.

(C) The percentage requirements of subdivision (c) shall be achieved within each of the following categories: (1) rental housing developments; (2) homeownership developments; and (3) rehabilitation financing. Housing units provided by rehabilitation financing shall not be counted within either of the first two categories.

(d) It is the intent of the Legislature, and the Legislature declares, that housing authorities are the local entities with primary responsibility for providing housing for low-income and very low income households within their jurisdictions. However, recognizing that housing projects only for low-income households cannot be adequately assisted or developed with currently available funds, and that excess funds from housing projects assisted pursuant to this section can be utilized to further assist in the provision of housing for lower income households, it is the intent of the Legislature that the

authorization of this section is to be used to enhance and supplement the traditional housing authority role of providing housing only for low-income households.

CHAPTER 1311

An act to amend Sections 69583, 69586, 69590.5, 69592, 69595, 69595.5, 69603, 72602.3, 72602.9, 73075, 73101.5, 74131, 74191, 74708, 74841, 74949, and 74956 of, and to add Section 69607 to, the Government Code, relating to courts, and making an appropriation therefor.

[Approved by Governor September 20, 1984. Filed with Secretary of State September 21, 1984.]

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

SECTION 1. Section 69583 of the Government Code is amended to read:

69583. In the County of Fresno there shall be 14 judges of the superior court; provided, that if the board of supervisors finds there are sufficient funds for an additional judge and adopts a resolution to that effect, there shall be 15 judges of the superior court.

SEC. 2. Section 69586 of the Government Code is amended to read:

69586. In the County of Los Angeles there shall be 206 judges of the superior court, any one or more of whom may hold court; provided, that at such time as the Los Angeles County Board of Supervisors finds there are sufficient funds for any number of additional judges up to a total number of 18 and adopts a resolution or resolutions to that effect, there shall be 206 judges of the superior court plus the additional judge or judges provided by this section, any one or more of whom may hold court.

SEC. 3. Section 69590.5 of the Government Code is amended to read:

69590.5. In the County of Napa there shall be two judges of the superior court; provided, that at such time as the board of supervisors finds, on or after January 1, 1984, that there are funds for an additional superior court judge and adopts a resolution to that effect, there shall be three judges.

SEC. 4. Section 69592 of the Government Code is amended to read:

69592. In the County of Riverside there shall be 19 judges of the superior court.

SEC. 5. Section 69595 of the Government Code is amended to read:

69595. In the County of San Diego there shall be 43 judges of the superior court; provided, that at such time as the board of supervisors

finds there are sufficient funds for any number of additional judges up to a total of six and adopts a resolution to that effect, there shall be 43 judges of the superior court plus the judge or judges provided by this section.

SEC. 5.5. Section 69595.5 of the Government Code is amended to read:

69595.5. Notwithstanding the provisions of Article 5 (commencing with Section 69740) of Chapter 5 of Title 8, in the County of San Diego, one or more judges of the superior court shall hold concurrent daily sessions in the City of Vista, two or more judges of the superior court shall hold concurrent daily sessions in the City of El Cajon, and one judge of the superior court shall hold concurrent daily sessions within the South Bay Municipal Court District.

SEC. 5.7. Section 69603 of the Government Code is amended to read:

69603. In the County of Sonoma there shall be eight judges of the superior court.

SEC. 6. Section 69607 is added to the Government Code, to read:

69607. In the County of Tehama there shall be two judges of the superior court.

SEC. 7. Section 72602.3 of the Government Code is amended to read:

72602.3. In addition to the number of judges prescribed by Section 72602, there shall be one additional judge for the South Bay Municipal Court District; provided, that at such time as the Los Angeles County Board of Supervisors finds there are sufficient funds for two additional judges for the South Bay Municipal Court District and adopts a resolution to that effect, there shall be two additional judges for the South Bay Municipal Court District.

SEC. 8. Section 72602.9 of the Government Code is amended to read:

72602.9. Notwithstanding any other provision of law, there shall be six judges in the Citrus Judicial District; provided that at such time as the Los Angeles County Board of Supervisors finds there are sufficient funds for one additional judge for that district and adopts a resolution to that effect, there shall be seven judges in the Citrus Judicial District; and further provided that, following the appointment of a seventh judge, there shall be no more than one court commissioner in the Citrus Judicial District unless and until the Los Angeles County Board of Supervisors finds that there are sufficient funds for a second court commissioner for that district and adopts a resolution to that effect, at which time there shall be two court commissioners in the Citrus Judicial District.

SEC. 9. Section 73075 of the Government Code is amended to read:

73075. Each of the municipal court districts established in Alameda County shall have the number of judges set out below opposite the name of the judicial district over which such court has jurisdiction:

Alameda Judicial District	1
Berkeley-Albany Judicial District	4
Oakland-Piedmont-Emeryville Judicial District	14
San Leandro-Hayward Judicial District	8
Fremont-Newark-Union City Judicial District	4
Livermore-Pleasanton Judicial District	2

SEC. 9.5. Section 73101.5 of the Government Code is amended to read:

73101.5. There shall be the following number of judges in divisions of the San Bernardino County Municipal Court District: in the East Division, two; in the Central Division, six; in the Valley Division, two; in the West Valley Division, six; in the Victorville Division, two; in the Barstow Division, one, provided that at such time as the board of supervisors finds there are sufficient funds for an additional judge for the Barstow Division and adopts a resolution to that effect, there shall be two judges for the Barstow Division; in the Chino Division, one; and in the Morongo Basin Division, one.

SEC. 10. Section 74131 of the Government Code is amended to read:

74131. There shall be six judges in the Riverside Judicial District, which shall include the City of Riverside. There shall be five judges in the Desert Judicial District, which shall include the Cities of Palm Springs, Indio, and Blythe. There shall be two judges in the Corona Judicial District, which shall include the City of Corona. There shall be two judges in the Mt. San Jacinto Judicial District, which shall include the Cities of Hemet, San Jacinto, Beaumont and Banning; provided, that at such time as the Riverside County Board of Supervisors finds there are sufficient funds for an additional judge for the Mt. San Jacinto Judicial District and adopts a resolution to that effect, there shall be three judges in the Mt. San Jacinto Judicial District. There shall be two judges in the Three Lakes Judicial District.

SEC. 11. Section 74191 of the Government Code is amended to read:

74191. There shall be 15 judges; provided, that at such time as the Sacramento County Board of Supervisors finds there are sufficient funds for one additional judge, there shall be 16 judges.

SEC. 11.5. Section 74708 of the Government Code is amended to read:

74708. In the municipal court in the district which coincides with all the territory in the County of Sonoma, there shall be the following personnel:

(a) There shall be six judges who may together appoint:

(1) One court commissioner.

(2) One court administrative officer-jury commissioner.

(3) One clerk.

(4) One court reporter.

(5) Two municipal court secretaries.

(b) The court administrative officer-jury commissioner may appoint:

(1) One administrative assistant.
(2) One municipal court services supervisor.
(3) One accountant I.
(4) Eleven municipal court clerks IV.
(5) One deputy jury commissioner.
(6) One account clerk III.
(7) Eighteen municipal court clerks III.
(8) Two account clerks II.
(9) Twenty municipal court clerks II/I alternate.

SEC. 12. Section 74841 of the Government Code is amended to read:

74841. There shall be three judges.

SEC. 13. Section 74949 of the Government Code is amended to read:

74949. There shall be three judges in the municipal court for the County of Napa. The presiding judge of the court shall be selected pursuant to the local rules of court.

SEC. 14. Section 74956 of the Government Code is amended to read:

74956. (a) There shall also be the following court employee positions, whose numbers and salary range on the standard salary schedule of the County of Napa shall be as specified:

Position title	Number of positions	Salary range
Assistant clerk of the court	1	B089
Supervising court clerk	2	B048
Senior municipal court clerk	3	A129
Account clerk III	1	A109
Deputy clerk III	6	A089
Deputy clerk II - interpreter	1	A089
Deputy clerk II	2	A069

(b) Each such person employed on the effective date of this article in the office of the clerk of the municipal court shall receive credit for prior continuous service in office, including service in a court superseded upon the establishment of the municipal court.

SEC. 15. The sum of two million seven hundred eighty-six thousand eight hundred eighty dollars ($2,786,880) is hereby appropriated from the General Fund to the Controller for allocation and disbursement in accordance with Section 2231 of the Revenue and Taxation Code to local agencies and school districts to reimburse them for costs mandated by the state and incurred by them pursuant to this act.

SEC. 16. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article

XIII B of the California Constitution because Sections 5.7 and 11.5 of this act are in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Furthermore, this act does not create any present or future obligation to reimburse the agency or district for any costs incurred because of Sections 5.7 and 11.5 of this act.

CHAPTER 1312

An act to add Sections 35790.4 and 35790.5 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 20, 1984. Filed with Secretary of State September 21, 1984.]

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

SECTION 1. Section 35790.4 is added to the Vehicle Code, to read:

35790.4. The Legislature finds and declares that current restrictions on the movement of combinations of manufactured homes have unduly restricted the ability of the California manufactured housing industry to meet the needs of the consumer in this state.

The Legislature further finds and declares that the improved movement of manufactured homes, with appropriate safeguards, will benefit the state's economy and will allow production of more affordable and aesthetic manufactured homes.

SEC. 2. Section 35790.5 is added to the Vehicle Code, to read:

35790.5. (a) A permit issued pursuant to Section 35790 may authorize an exemption from length limitations otherwise applicable to vehicles and combinations of vehicles for the transportation of more than one unit of a manufactured home if all of the following conditions are met:

(1) The units are parts of a manufactured home that, when completed, connect two or more modular units.

(2) The units are mounted or loaded on a single vehicle or chassis in a manner so that their narrowest dimension represents the loaded width on the highway.

(3) The units are loaded in tandem only with respect to length, and the dimension from the front of the forward unit to the rear of the last unit does not exceed the length of vehicles in combination that would otherwise be permitted under this section.

(b) Applications for permits issued pursuant to this section shall specifically describe the manufactured home units to be moved and shall include a written statement of good cause satisfying the requirements of this section.

(c) Permits, other than annual permits, issued pursuant to this

section shall describe the particular highways over which the permit is valid and shall be subject to all of the conditions of this article and any additional conditions imposed by the public agency issuing the permit.

CHAPTER 1313

An act to amend Section 15039.7 of the Unemployment Insurance Code, relating to the State Job Training Coordinating Council.

[Approved by Governor September 20, 1984. Filed with Secretary of State September 21, 1984.]

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

SECTION 1. Section 15039.7 of the Unemployment Insurance Code is amended to read:

15039.7. Members of the state council may receive up to one hundred dollars ($100) for each day's actual attendance at meetings and other official business of the council, not to exceed three hundred dollars ($300) per month, and shall receive their necessary and actual expenses incurred in the performance of their official duties.

CHAPTER 1314

An act to amend and repeal Sections 18954, 18958, 18959, 18959.5, 18960, and 18961 of the Health and Safety Code, relating to historical preservation, and making an appropriation therefor.

[Approved by Governor September 20, 1984. Filed with Secretary of State September 21, 1984.]

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

SECTION 1. Section 18954 of the Health and Safety Code is amended to read:

18954. Repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, moving, or continued use of an historical building or structure may be made if they conform to this part. The building department of every city or county shall apply the provisions of alternative building standards and building regulations adopted pursuant to Section 18959.5 in permitting repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, moving, or continued use of an historical building or structure. A state agency shall apply the the alternative building regulations adopted pursuant to Section 18959.5 in

permitting repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, moving, or continued use of an historical building or structure.

The application of any alternative standards for the provision of access to the physically handicapped or exemption from access requirements shall be done on a case-by-case and item-by-item basis, and shall not be applied to an entire building or structure without individual consideration of each item, and shall not be applied to related sites or areas except on an item-by-item basis.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before such date, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, pursuant to Section 9611 of the Government Code, Section 18954 of the Health and Safety Code, as amended by Section 2 of Chapter 598 of the Statutes of 1981, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. Section 18958 of the Health and Safety Code is amended to read:

18958. Except as provided in Section 18930, the following state agencies, in addition to the State Historical Building Code Board, shall have the authority to adopt rules and regulations pursuant to the State Historical Building Code governing the rehabilitation, preservation, restoration, related reconstruction, or relocation of qualified historical buildings and structures within their jurisdiction:

(a) The Office of the State Architect.

(b) The State Fire Marshal.

(c) The State Building Standards Commission, but only with respect to approval of building standards.

(d) The Department of Housing and Community Development.

(e) The Department of Transportation.

(f) Other state agencies that may be affected by this part.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before such date, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, pursuant to Section 9611 of the Government Code, Section 18958 of the Health and Safety Code, as amended by Section 3 of Chapter 598 of the Statutes of 1981, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 3. Section 18959 of the Health and Safety Code is amended to read:

18959. (a) Except as otherwise provided in Part 2.5 (commencing with Section 18901), all the state agencies shall administer and enforce this part with respect to qualified historical buildings or structures under their respective jurisdiction.

(b) Except as otherwise provided in Part 2.5 (commencing with Section 18901), all local building authorities shall administer and enforce this part with respect to qualified historical structures under

their respective jurisdictions where applicable.

(c) The State Historical Building Code Advisory Board shall coordinate and consult with the other applicable state agencies affected by this part and, except as provided in Section 18943, disseminate provisions adopted pursuant to this part to all local building authorities and state agencies at cost.

(d) Regulations adopted by the State Fire Marshal pursuant to this part shall be enforced in the same manner as regulations are enforced under Sections 13145, 13146, and 13146.5.

(e) Regular and alternative building standards published in the State Building Standards Code shall be enforced in the same manner by the same governmental entities as provided by law.

(f) When administering and enforcing the provisions of this part, all local agencies may make changes or modifications in the requirements contained in the State Historical Building Code, as described in Section 18944.7, as it determines are reasonably necessary because of local climatic, geological, and topographical conditions. The local agency shall make an express finding that the modifications or changes are needed, and the finding shall be available as a public record. A copy of the finding and change or modification shall be filed with the State Historical Building Code Board. No modification or change shall become effective or operative for any purpose until the finding and modification or change have been filed with the department.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before such date, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, pursuant to Section 9611 of the Government Code, Section 18959 of the Health and Safety Code, as amended by Section 4 of Chapter 598 of the Statutes of 1981, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 4. Section 18959.5 of the Health and Safety Code is amended to read:

18959.5. Subject to the provisions of Part 2.5 (commencing with Section 18901) of this division, the State Historical Buildings Code Board shall adopt and submit alternative building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division and may adopt, amend, and repeal other alternative rules and regulations under this part which the board has recommended for adoption under subdivision (b) of Section 18960 by the State Architect or other applicable state agencies.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before such date, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, pursuant to Section 9611 of the Government Code, Section 18959.5 of the Health and Safety Code, as amended by Section 168 of Chapter 1152 of the Statutes of 1979, shall have the same force and effect as

if this temporary provision had not been enacted.

SEC. 5. Section 18960 of the Health and Safety Code is amended to read:

18960. (a) A State Historical Building Code Board is hereby established within the Office of the State Architect which shall be composed of qualified experts in their respective fields who shall represent various state and local public agencies, professional design societies and building organizations.

(b) This board shall act as a consultant to the State Architect and to the other applicable state agencies. The board shall recommend to the State Architect and the other applicable state agencies rules and regulations for adoption pursuant to this part.

(c) The board shall also act as a review body to state and local agencies with respect to interpretations of this part as well as on matters of administration and enforcement of it. The board's decisions shall be reported in printed form.

(1) Notwithstanding subdivision (b) of Section 18945, if any local agency administering and enforcing this part and any person adversely affected by any regulation, rule, omission, interpretation, decision, or practice of this agency representing a building standard wish to appeal the issue for resolution to the State Historical Building Code Board, these parties may appeal to the board. The board may accept the appeal only if it determines that issues involved in the appeal have statewide significance.

(2) The State Historical Building Code Board shall, upon making a decision on an appeal pursuant to paragraph (1), send a copy to the State Building Standards Commission.

(3) Requests for interpretation by local agencies of the provisions of this part may be accepted for review by the State Historical Building Code Board. A copy of an interpretation decision shall be sent to the State Building Standards Commission in the same manner as paragraph (2).

(4) The State Historical Building Code Board may charge a reasonable fee, not to exceed the cost of the service, for request for copies of their decisions and for requests for reviews by the board pursuant to paragraph (1) or (3). All funds collected pursuant to this paragraph shall be deposited in the State Historical Building Code Fund, which is hereby established. Notwithstanding Section 13340 of the Government Code, these funds shall be continuously appropriated to the State Historical Building Code Board for the 1984–85 fiscal year to cover the costs imposed by the chapter of the Statutes of 1984 which amends this section. Thereafter, the State Historical Building Code Fund shall not be continuously appropriated and the fees collected therefor shall be subject to annual appropriation in the Budget Act.

(5) Local agencies may also charge reasonable fees not to exceed the cost for making an appeal pursuant to paragraph (1) to persons adversely affected as described in that appeal.

(6) All other appeals involving building standards under this part

shall be made as set forth in subdivision (a) of Section 18945.

(d) The board shall be composed of representatives of state agencies and public and professional building design organizations. Unless otherwise indicated, each named organization shall designate its own representative. Each of the following shall have one member on the board who shall serve without pay, but shall receive actual and necessary expenses incurred while serving on the board:

(1) Office of the State Architect.

(2) The State Fire Marshal.

(3) The State Historical Resources Commission.

(4) The California Occupational, Safety and Health Standards Board.

(5) California Council, American Institute of Architects.

(6) Structural Engineers Association of California.

(7) A mechanical engineer, Consulting Engineers Association of California.

(8) An electrical engineer, Consulting Engineers Association of California.

(9) California Council of Landscape Architects.

(10) The Department of Housing and Community Development.

(11) The Department of Parks and Recreation.

(12) County Supervisors Association of California.

(13) League of California Cities.

(14) The Office of Statewide Health Planning and Development.

(15) The Department of Rehabilitation.

(16) The California Chapter of the American Planning Association.

The 16 members listed above shall select (1) a building contractor and (2) a member of the California building officials to serve as members of the board. Such members shall serve without pay, but shall receive actual and necessary expenses incurred while serving on the board.

Each of the appointing authorities may appoint an alternate in addition to a member. The alternate member shall serve in place of the member at such meetings of the board as the member is unable to attend. The alternate shall have all of the authority that the member would have when the alternate is attending in the place of the member.

(e) The term of membership on the board shall be for four years, with the State Architect's representative serving continually until replaced. Vacancies on the board shall be filled in the same manner as original appointments. The board shall annually select a chairperson from among the members of the board.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before such date, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, pursuant to Section 9611 of the Government Code, Section 18960 of the Health and Safety Code, as amended by Section 5 of Chapter 598

of the Statutes of 1981, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 6. Section 18961 of the Health and Safety Code is amended to read:

18961. All state agencies which, enforce and administer variances or appeals procedures affecting the preservation of the historical aspects of historical buildings shall use the alternative provisions of this part and shall consult with the State Historical Building Code Board to obtain its review prior to undertaking action or making decisions on variances or appeals which affect historical buildings.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before such date, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, pursuant to Section 9611 of the Government Code, Section 18961 of the Health and Safety Code, as added by Section 3 of Chapter 1358 of the Statutes of 1982, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 7. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 8. Sections 1 to 7, inclusive, of this act shall become operative July 1, 1985.

CHAPTER 1315

An act to amend Sections 5001 and 5007 of the Unemployment Insurance Code, relating to employment.

[Approved by Governor September 21, 1984. Filed with Secretary of State September 21, 1984.]

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

SECTION 1. Section 5001 of the Unemployment Insurance Code is amended to read:

5001. It is the intent of the Legislature to concentrate maximum state efforts on providing increased employment opportunities and upgrading of employment skills in order to open the way to permanent self-support for persons who have been or otherwise might become dependent on public aid. To this end the Legislature intends that persons affected by this chapter shall be assigned to the primary jurisdiction of the department, which shall be responsible

for implementing and executing the provisions of this chapter.

Consistent with the intent of the Legislature to promote and achieve permanent employment of persons qualifying for work incentive programs under this division, it shall be the responsibility of each state agency and the political subdivisions of this state to cooperate by providing as many opportunities as possible for the permanent employment of such persons.

It is also the intent of the Legislature to enable recipients of the Aid to Families with Dependent Children program, provided for pursuant to Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code to make a transition to a self-sustaining situation, through a directed career educational program.

The Legislature finds that education is a necessity in the State of California in order to successfully compete in today's competitive job market and that the effectiveness of education has been tested in the State of California through the implementation of Chapter 1029 of the Statutes of 1982 (Assembly Bill 3103) and proven to be successful. Therefore, education shall be encouraged and promoted among AFDC recipients so they may become self-sufficient.

Accordingly, it is the intent of the Legislature that the registration process for the Work Incentive program shall not exceed one day for those enrolled in an education program so as not to unduly interfere with the AFDC recipient's academic studies.

SEC. 2. Section 5007 of the Unemployment Insurance Code is amended to read:

5007. A registrant certified by the SAU pursuant to Section 11300 of the Welfare and Institutions Code shall accept assignment to employment or WIN training as determined appropriate by the department or face deregistration action. The following standards shall be met before the department requires any such individual to accept a work or training assignment:

(a) All assignments for those in WIN training shall be within the scope of an individual's employability plan. This plan may be modified to reflect changed employment conditions.

(b) To the extent permitted by federal law, an Aid to Families with Dependent Children--Family Group recipient who is required to register for the WIN program because he or she is enrolled in school for at least 12 units of credit shall be deemed unsuitable for participation in the WIN program components such as community work experience and job training, as long as the recipient's youngest child is under six years old and the program confers a post secondary degree, vocational certificate, or high school diploma.

(c) The job or training assignment shall be related to the capability of the individual to perform the task on a regular basis. Any claim of adverse effect on physical or mental health shall be based on an adequate medical testimony from a physician or licensed or certified psychologist indicating that participation would impair the individual's physical or mental health.

(d) The total daily commuting time to and from home to the work or training site to which the individual is assigned shall not normally exceed two hours, not including the transporting of a child to and from a child care facility, unless a longer commuting distance and time is generally accepted in the community, in which case the round trip commuting time shall not exceed the generally accepted community standards.

(e) When child care is required, it shall meet the standards specified in applicable federal law and shall be available during the hours the individual is engaged in a WIN component or manpower activity, plus any additional necessary commuting time.

(f) The work or training site to which the individual is assigned shall not be in violation of applicable federal, state, and local health and safety standards.

(g) Assignments shall not be made which are discriminatory in terms of age, sex, race, creed, color, or national origin.

(h) The individual shall not be referred to work or training unless supportive and manpower services necessary for participation are available. The cessation or withdrawal of such necessary services while the individual is in a WIN component shall constitute good cause for refusal to participate.

(i) The quality of the training shall meet local employers' requirements so that the individual will be in a competitive position within the local labor market. The training shall also be likely to lead to employment which will meet the appropriate work criteria.

The State Department of Social Services and the Employment Development Department shall report to the Legislature the number of registrants pursuant to Article 3 (commencing with Section 11300) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code:

(a) Deemed unsuitable for participation in any WIN component or activity.

(b) Who complete a career educational program as certified.

(c) Who continue to receive aid under the Aid to Families with Dependent Children program upon completion of the career educational program.

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

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1316

An act to add Section 26308 to, and to add and repeal Section 26538 of, the Health and Safety Code, relating to food, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1984. Filed with Secretary of State September 21, 1984.]

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

SECTION 1. Section 26308 is added to the Health and Safety Code, to read:

26308. In any case where the department has adopted a regulation prescribing a tolerance, including, but not limited to, a zero tolerance, for a poisonous or deleterious substance, food additive, pesticide chemical, or color additive in processed foods, the department may require manufacturers to guarantee that foods they market in the state comply with the tolerance. The department may require such a guarantee periodically but in no case more often than once each calendar quarter.

SEC. 2. Section 26538 is added to the Health and Safety Code, to read:

26538. (a) Except as otherwise provided in subdivision (b), any processed food manufacured after March 31, 1986, that bears or contains the pesticide chemical, ethylene dibromide, in any detectable amount is adulterated and shall, notwithstanding Section 26522, be considered unsafe.

(b) On and after the effective date of this section, any processed food intended to be sold for consumption by infants and children under two years of age that bears or contains the pesticide chemical, ethylene dibromide, in any detectable amount is adulterated and shall, notwithstanding Section 26522, be considered unsafe.

(c) The director may, if he or she deems it necessary to protect the public interest, modify, by regulation, the date established in subdivision (a). If the director modifies the date, the director shall state the reasons for the action and the factors he or she took into consideration in modifying the date. Any regulation adopted by the director pursuant to this subdivision shall provide that a processed food manufactured after the modified date, that bears or contains the pesticide chemical, ethylene dibromide, in any detectable amount is adulterated and shall, notwithstanding Section 26522, be considered unsafe.

(d) Notwithstanding Section 26522, any processed food manufactured after March 31, 1986, or if the director modifies that date pursuant to subdivision (c), after the modified date, that bears or contains the pesticide chemical, ethylene dibromide, in any detectable amount is an adulterated food and shall be subject to this division.

(e) For purposes of this section, a detectable amount of ethylene dibromide shall be deemed to be an amount equal to one part per billion or more.

(f) This section shall remain in effect only until January 1, 1990, and on that date is repealed, unless a later enacted statute chaptered before that date deletes or extends that date.

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

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The pesticide chemical, ethylene dibromide, is a carcinogen that is currently present in a variety of processed foods available for purchase in the state. In order that human exposure to ethylene dibromide in processed foods can be phased out as soon as possible, it is necessary for the provisions of this act to take effect immediately.

CHAPTER 1317

An act to amend Sections 6302, 6312, 6313, 6314, 6315, 6318, 6330, 6409.1, and 6432 of, and to add Section 6315.3 to, the Labor Code, relating to safety in employment.

[Approved by Governor September 21, 1984. Filed with Secretary of State September 21, 1984.]

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

SECTION 1. Section 6302 of the Labor Code is amended to read:

6302. As used in this division:

(a) "Director" means the Director of Industrial Relations.

(b) "Department" means the Department of Industrial Relations.

(c) "Insurer" includes the State Compensation Insurance Fund and any private company, corporation, mutual association, and reciprocal or interinsurance exchange, authorized under the laws of this state to insure employers against liability for compensation under this part and under Division 4 (commencing with Section 3201), and any employer to whom a certificate of consent to self-insure has been issued.

(d) "Division" means the Division of Occupational Safety and Health.

(e) "Standards board" means the Occupational Safety and Health Standards Board, within the department.

(f) "Appeals board" means the Occupational Safety and Health Appeals Board, within the department.

(g) "Aquaculture" means a form of agriculture as defined in Section 17 of the Fish and Game Code.

(h) "Serious injury or illness" means any injury or illness occurring in a place of employment or in connection with any employment which requires inpatient hospitalization for a period in excess of 24 hours for other than medical observation or in which an employee suffers a loss of any member of the body or suffers any serious degree of permanent disfigurement, but does not include any injury or illness or death caused by the commission of a Penal Code violation, except the violation of Section 385 of the Penal Code, or an accident on a public street or highway.

(i) "Serious exposure" means any exposure of an employee to a hazardous substance when the exposure occurs as a result of an incident, accident, emergency, or exposure over time and is in a degree or amount sufficient to create a substantial probability that death or serious physical harm in the future could result from the exposure.

SEC. 2. Section 6312 of the Labor Code is amended to read:

6312. Any employee who believes that he or she has been discharged or otherwise discriminated against by any person in violation of Section 6310 or 6311 may, within 30 days after the occurrence of the violation, file a complaint with the Labor Commissioner alleging the discrimination. Upon receipt of the complaint, the Division of Labor Standards Enforcement shall investigate. If upon investigation it determines that the provisions of Section 6310 or 6311 have been violated, the employee and employer shall be notified, and if settlement between the parties is not reached within 10 working days following receipt of the notification, it shall bring an action in any appropriate court against the person who committed the violation. In any such action the courts shall have jurisdiction, for cause shown, to restrain violations of Section 6310 or 6311 and order all appropriate relief including rehiring or reinstatement of the employee to his or her former position with back pay, and an amount equal to back pay as liquidated damages.

Within 30 days of the receipt of a complaint pursuant to this section, the Division of Labor Standards Enforcement shall review the facts of the employee's complaint, set a hearing date or notify the employee and the employer of its decision, and, where necessary, begin the appropriate court action to enforce the decision.

SEC. 3. Section 6313 of the Labor Code is amended to read:

6313. (a) The division shall investigate the causes of any employment accident which is fatal to one or more employees or which results in a serious injury or illness, or a serious exposure, unless the division determines an investigation is unnecessary, in which case the division shall summarize the facts indicating that the

accident need not be investigated and the means by which the facts were determined. The division shall establish guidelines for determining the circumstances under which an investigation of these accidents and exposures is unnecessary.

(b) The division may investigate the causes of any other industrial accident or occupational illness which occurs within the state in any employment or place of employment, or which directly or indirectly arises from or is connected with the maintenance or operation of the employment or place of employment, and shall issue any orders necessary to eliminate the causes and to prevent reoccurrence. The orders shall not be admitted as evidence in any action for damages, or any proceeding to recover compensation, based on or arising out of injury or death caused by the accident or illness.

SEC. 4. Section 6314 of the Labor Code is amended to read:

6314. (a) To make an investigation or inspection, the chief of the division and all qualified divisional inspectors and investigators authorized by him or her shall, upon presenting appropriate credentials to the employer, have free access to any place of employment to investigate and inspect during regular working hours, and at other reasonable times when necessary for the protection of safety and health, and within reasonable limits and in a reasonable manner. The chief or his or her authorized representative may, during the course of any investigation or inspection, obtain any statistics, information, or any physical materials in the possession of the employer which are directly related to the purpose of the investigation or inspection, conduct any tests necessary to the investigation or inspection, and take photographs. Photographs taken by the division during the course of any investigation or inspection shall be considered to be confidential information pursuant to the provisions of Section 6322, and shall not be deemed to be public records for purposes of the California Public Records Act.

(b) If permission to investigate or inspect the place of employment is refused, or the facts or circumstances reasonably justify the failure to seek permission, the chief or his or her authorized representative may obtain an inspection warrant pursuant to the provisions of Title 13 (commencing with Section 1822.50) of the Code of Civil Procedure. Cause for the issuance of a warrant shall be deemed to exist if there has been an industrial accident, injury, or illness reported, if any complaint that violations of occupational safety and health standards exist at the place of employment has been received by the division, or if the place of employment to be inspected has been chosen on the basis of specific neutral criteria contained in a general administrative plan for the enforcement of this division.

(c) The chief and his or her authorized representatives may issue subpoenas to compel the attendance of witnesses and the production of books, papers, records, and physical materials, administer oaths, examine witnesses under oath, take verification or proof of written

materials, and take depositions and affidavits for the purpose of carrying out the duties of the division.

(d) In the course of any investigation or inspection of an employer or place of employment by an authorized representative of the division, a representative of the employer and a representative authorized by his or her employees shall have an opportunity to accompany him or her on the tour of inspection. Any employee or employer, or their authorized representatives, shall have the right to discuss safety and health violations or safety and health problems with the inspector privately during the course of an investigation or inspection. Where there is no authorized employee representative, the chief or his or her authorized representatives shall consult with a reasonable number of employees concerning matters of health and safety of the place of employment.

(e) If, during any investigation of an industrial accident or occupational illness conducted by the division pursuant to the provisions of Section 6313, the chief or his or her authorized representative is refused entry by the employer, the chief or his or her authorized representative may issue an order to preserve physical materials or the accident site as they were at the time the accident or illness occurred if, in the opinion of the division, it is necessary to do so in order to determine the cause or causes of the accident or illness.

A conspicuous notice that such an order has been issued shall be prepared by the division and shall be posted by the employer in the area or on the article to be preserved. Any such order shall be limited to the immediate area and the machines, devices, apparatus, or equipment directly associated with the accident or illness. An order preserving an accident site shall remain in effect until the division gains access to the place of employment, or until otherwise ordered by the court having jurisdiction.

The division shall make application, to the court having jurisdiction, for the issuance of an inspection warrant.

Any person who knowingly violates an order issued by the division pursuant to this subdivision shall, upon conviction, be punished by a fine of not more than five thousand dollars ($5,000).

SEC. 5. Section 6315 of the Labor Code is amended to read:

6315. (a) There shall be within the division a Bureau of Investigations. The bureau shall be responsible for directing accident investigations involving violations of standards, orders, or special orders, or Section 25910 of the Health and Safety Code, in which there is a serious injury to five or more employees, death, or request for prosecution by a division representative. The bureau shall review inspection reports involving a serious violation where there have been serious injuries to one to four employees or a serious exposure, and may investigate those cases in which the bureau finds criminal violations may have occurred. The bureau shall be responsible for preparing cases for prosecution, including evidence and findings.

(b) The division shall provide the bureau with all of the following:

(1) All initial accident reports.

(2) The division's inspection report for any inspection involving a serious violation where there is a fatality, and the reports necessary for the bureau's review required pursuant to subdivision (a).

(3) Any other documents in the possession of the division requested by the bureau for its review or investigation of any case.

(c) The supervisor of the bureau shall be the administrative chief of the bureau, and shall be an attorney.

(d) The bureau shall be staffed by as many attorneys and investigators as are necessary to carry out the purposes of this chapter. To the extent possible, the attorneys and investigators shall be experienced in criminal law.

(e) The supervisor of the bureau and bureau representatives designated by the supervisor shall have a right of access to all places of employment necessary to the investigation, may collect any evidence or samples they deem necessary to an investigation, and shall have all of the powers enumerated in Section 6314.

(f) The supervisor of the bureau and bureau representatives designated by the supervisor may serve all processes and notices throughout the state.

(g) In any case where the bureau is required to conduct an investigation, and in which there is a serious injury or death, the results of the investigation shall be referred by the bureau to the appropriate prosecuting authority having jurisdiction for appropriate action, unless the bureau determines that there is legally insufficient evidence of a violation of the law.

(h) The bureau may communicate with the appropriate prosecuting authority at any time the bureau deems appropriate.

SEC. 6. Section 6315.3 is added to the Labor Code, to read:

6315.3. The bureau shall, not later than February 15, annually submit to the division for submission to the director a report on the activities of the bureau, including, but not limited to, the following:

(a) Totals of each type of report provided the bureau under each category in subdivision (b) of Section 6315.

(b) Totals of each type of case reflecting the number of investigations and court cases in progress at the start of the calendar year being reported, investigations completed in the calendar year, cases referred to appropriate prosecuting authorities in the calendar year, and investigations and court cases in progress at the end of the calendar year. The types of cases shall include the following:

(1) Those in which the bureau is required to investigate, divided into fatalities, serious injuries to five or more employees, and requests for prosecution from a division representative.

(2) Those which were initiated by the bureau following the review required in subdivision (a) of Section 6315, divided into serious injuries to fewer than five employees and serious exposures.

(c) A summary of the dispositions in the calendar year of cases referred by the bureau to apropriate prosecuting authorities. The summary shall be divided into the types of cases, as described in

subdivision (b), and shall show at least the violation, the statute for which the case was referred for prosecution, and the dates of referral to the bureau for investigation, referral from the bureau for prosecution, and the final court action if the case was prosecuted.

(d) A summary of investigations completed in the calendar year which did not result in a referral for prosecution, divided into the types of cases as described in subdivision (b), showing the violation, and the reasons for nonreferral.

(e) A summary of the use of the bureau's resources in accomplishing the bureau's mission.

SEC. 7. Section 6318 of the Labor Code is amended to read:

6318. Each citation issued under Section 6317, or a copy or copies thereof, shall be prominently posted, as prescribed in regulations issued by the director, at or near each place a violation referred to in the citation occurred. All such postings shall be maintained for three days or until the unsafe condition is abated, whichever is longer. Following each investigation of an industrial accident or occupational illness, if no violations are found, the employer shall post a notice prepared by the division so indicating for three days.

SEC. 7.5. Section 6318 of the Labor Code is amended to read:

6318. Each citation issued under Section 6317, and each special order or action ordered pursuant to Section 6308, or a copy or copies thereof, shall be prominently posted, as prescribed in regulations issued by the director, at or near each place a violation referred to in the citation or order occurred. All postings shall be maintained for three days or until the unsafe condition is abated, whichever is longer. Following each investigation of an industrial accident or occupational illness, if no violations are found, the employer shall post a notice prepared by the division so indicating for three days.

SEC. 8. Section 6330 of the Labor Code is amended to read:

6330. The director shall prepare and submit to the Legislature, not later than March 1, an annual report on the division activities. The report shall include, but need not be limited to, the following information for the previous calendar year:

(a) The amount of funds allocated and spent in enforcement, education and research, and administration by the division.

(b) Total inspections made, and citations issued by the division.

(c) The number of civil penalties assessed, total amount of fines collected and the number of appeals heard.

(d) The number of contractors referred to the Contractor's State License Board for hearing, pursuant to Section 7109.5 of the Business and Professions Code, and the total number of these cases resulting in suspension or revocation of a license.

(e) The report from the division prepared by the Bureau of Investigations for submission to the director pursuant to Section 6315.3.

(f) Recommendations for legislation which improves the ability of the division to provide safety in places of employment.

The report shall be made to the Speaker of the Assembly and the

Chairman of the Rules Committee of the Senate, for assignment to the appropriate committee or committees for evaluation.

SEC. 9. Section 6409.1 of the Labor Code is amended to read:

6409.1. (a) Every employer shall file a complete report of every occupational injury or occupational illness, as defined in subdivision (b) of Section 6409, to each employee which results in lost time beyond the date of the injury or illness, or which requires medical treatment beyond first aid, with the Department of Industrial Relations, through its Division of Labor Statistics and Research or, if an insured employer, with the insurer. Each report of occupational injury or occupational illness shall indicate the social security number of the injured employee. In the case of an insured employer, the insurer shall file a copy of the employer's report with the division immediately upon receipt.

(b) In every case involving a serious injury or illness, or death, in addition to the report required by subdivision (a), a report shall be made immediately by the employer to the Division of Occupational Safety and Health by telephone or telegraph.

SEC. 10. Section 6432 of the Labor Code is amended to read:

6432. As used in this part, a "serious violation" shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a serious exposure exceeding an established permissible exposure limit or a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use, in the place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

SEC. 11. Nothing in this act shall be construed to authorize the assessment of a penalty against an employer for a serious exposure which does not exceed an established permissible exposure limit.

SEC. 11.5. Section 7.5 of this bill incorporates amendments to Section 6318 of the Labor Code proposed by both this bill and SB 1376. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 6318 of the Labor Code, and (3) this bill is enacted after SB 1376, in which case Section 7 of this bill shall not become operative.

SEC. 12. Nothing in this act is intended to alter existing or future cooperative relationships between the Department of Industrial Relations and the Department of Food and Agriculture with reference to jurisdiction over agricultural workers, including field workers, mixers, loaders, applicators, and flaggers.

SEC. 13. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1

of that code.

SEC. 14. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1318

An act to amend Sections 62000, 62006, 62006.5, and 64001 of, and to add and repeal Section 62007 of, the Education Code, relating to education, and making an appropriation therefor.

[Approved by Governor September 21, 1984. Filed with Secretary of State September 21, 1984.]

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

SECTION 1. Section 62000 of the Education Code is amended to read:

62000. "Sunset" and "sunset date," as used in this part, mean the date on which specific categorical programs cease to be operative and Sections 62002, 62003, 62004, 62005, and 62005.5 govern program funding.

The following educational programs shall cease to be operative on the date specified, unless the Legislature enacts legislation to continue the program after the review prescribed in Section 62006:

(a) Sunset date of June 30, 1986:

(1) Demonstration programs in reading and mathematics.

(2) Local staff development and teacher education and computer centers.

(3) Professional development centers.

(4) Instructional materials.

(b) Sunset date of June 30, 1987:

(1) Miller-Unruh Basic Reading Act of 1965.

(2) School improvement program.

(3) Indian early childhood education.

(4) Economic impact aid.

(5) Bilingual education.

(c) Sunset date of June 30, 1988:

(1) Special education.

(2) Gifted and talented education.

(d) Sunset date of June 30, 1989:

(1) Child development and preschool programs.

(2) Adult education.

(3) Indian education centers.

SEC. 2. Section 62006 of the Education Code is amended to read:

62006. (a) The Legislature shall begin immediately a detailed study which shall ensure that each funding source and program is

scrutinized regarding, but not limited to, the following:

(1) Appropriateness of identification formulas in determining which children have special needs.

(2) Appropriateness of allocation formulas and adequacy of funding.

(3) Effectiveness of programs.

(4) Appropriateness of local control.

(5) Appropriateness of state level involvement in monitor, review, and auditing to assure that funds are being used efficiently, economically, and legally.

(6) Appropriateness of costs of administration at all levels of operating these programs.

(7) Appropriateness of State Department of Education administration of categorical programs.

(8) Interrelationships between and among state and federal categorical programs, as appropriate.

(9) Characteristics of the target population being served.

(10) Need for the program.

(11) Purpose and intent of the program.

(b) In order to facilitate the legislative review, reports shall be developed and submitted to the Legislature pursuant to subdivisions (c), (e), and (f). The reports for programs scheduled to sunset in 1986 shall be submitted to the Legislature by January 31, 1985; for programs scheduled to sunset in 1987, the reports shall be submitted by September 15, 1985; for programs scheduled to sunset in 1988, the reports shall be submitted by September 15, 1986; for programs scheduled to sunset in 1989, the reports shall be submitted by September 15, 1987.

The report by any agency in any given year may comment, within a single report, on all programs scheduled to sunset in the applicable year.

(c) The State Department of Education shall submit a report on the applicable programs pursuant to the schedule provided in subdivision (b) and shall also submit a copy of each report to the Legislative Analyst. The report shall contain, but not be limited to, all of the following:

(1) A description of the programs, including narrative descriptions of how they are typically operated at the local level and how they are administered at the state level.

(2) The history of the program or programs and previous legislative action.

(3) Relevant statistical data, including enrollment and fiscal data.

(4) Related federal programs, and any provisions of federal law which may be appropriate for the Legislature to consider in its review of the state programs.

(5) Whether there is an unmet need for the intended purposes of the program and, if any, the estimated cost of serving that unmet need.

(6) Findings regarding the program, addressing as many of the

issues identified in subdivision (a) as is possible. To the extent appropriate, as determined by the State Department of Education, the report shall include comments on whether any identified problems are implementation issues, or issues that warrant revision of law or regulations.

(7) Recommendations of ways to improve the program while maintaining its basic purposes.

(d) The Legislative Analyst shall review the report submitted by the State Department of Education and, no later than 90 days following the receipt of each report, shall submit findings, comments, and recommendations, as the Legislative Analyst determines appropriate, regarding the program, addressing as many of the issues identified in subdivision (a) as the Legislative Analyst determines is possible. To the extent determined appropriate by the Legislative Analyst, the report shall include comments on whether any identified problems are implementation issues or issues that warrant revision of the law or regulations and shall include recommendations of ways to improve the programs while maintaining its basic purposes.

(e) The Legislative Counsel shall submit a report on the applicable programs, pursuant to the schedule provided in subdivision (b). The report shall include, but not be limited to, the following:

(1) A summary of the law regarding the programs, including applicable regulations.

(2) A summary of related federal law and regulations, if any.

(3) A summary of related court decisions, if any.

(4) A summary of any federal provisions or court decisions which place constraints on the Legislature's alternatives.

(f) Each temporary advisory committee established pursuant to Section 62006.5 shall submit a report on the applicable programs, pursuant to the schedule provided in subdivision (b). The report shall make findings and recommendations on as many of the issues identified in subdivision (a), as is possible.

SEC. 3. Section 62006.5 of the Education Code is amended to read:

62006.5. (a) There are hereby established the following four temporary advisory committees, each to serve for the specified period of time:

(1) A temporary advisory committee on the programs scheduled to sunset on June 30, 1986. This advisory committee shall serve for the period January 1, 1984, through April 30, 1985.

(2) A temporary advisory committee on the programs scheduled to sunset on June 30, 1987. This advisory committee shall serve for the period January 1, 1985, through December 31, 1985.

(3) A temporary advisory committee on the programs scheduled to sunset on June 30, 1988. This advisory committee shall serve for the period January 1, 1986, through December 31, 1986.

(4) A temporary advisory committee on the programs scheduled

to sunset on June 30, 1989. This advisory committee shall serve for the period January 1, 1987, through December 31, 1987.

(b) Each temporary advisory committee shall consist of 12 members selected as follows:

(1) Three members selected by the Speaker of the Assembly who shall ensure that his or her appointees consist of one administrator or school board member, one nonadministrative school employee, and one parent, student, or community member.

(2) Three members selected by the President pro Tempore of the Senate who shall ensure that his or her appointees consist of one administrator or school board member, one nonadministrative school employee, and one parent, student, or community member.

(3) Six members selected by the Governor as follows:

(A) Two administrators or school board members.

(B) Two nonadministrative school employees.

(C) Any combination of two parents, students, or community members.

(c) In the event that any or all of the appointments specified in paragraph (3) of subdivision (b) have not been made by January 1 of the year in which the advisory committee is to begin serving, the Superintendent of Public Instruction shall make the necessary appointments.

(d) Members of each advisory committee shall serve without compensation, except for reimbursement of expenses.

(e) The State Department of Education shall provide staff support to each advisory committee.

(f) This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends that date.

SEC. 4. Section 62007 is added to the Education Code, to read:

62007. (a) The sum of fifty thousand dollars ($50,000) is hereby appropriated from the General Fund to the State Department of Education for the purpose of funding the temporary advisory committees established pursuant to Section 62006.5 for the 1984–85 fiscal year.

(b) It is the intent of the Legislature that appropriations for the purpose of funding temporary advisory committees in subsequent fiscal years be included in the annual Budget Act.

This section shall become inoperative on July 1, 1988, and, as of January 1, 1989, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 64001 of the Education Code is amended to read:

64001. (a) Notwithstanding any other provision of law, school districts shall not be required to submit to the State Department of Education, as part of the consolidated application, school plans for categorical programs subject to this part. School districts shall assure, in the consolidated application, that the appropriate school plans have been prepared in accordance with law, that school site councils

have developed and approved the school plans for schools participating in the School Improvement Program or School-Based Program Coordination Act, and that school plans were developed with the review, advice, and certification of any applicable school advisory committees. The consolidated application shall also include certifications by appropriate district advisory committees that the application was developed with review and advice of those committees.

The consolidated application shall also include a description of the procedures adopted by the school district to comply with subdivision (c).

For any consolidated application which does not include the necessary certifications or assurances, the State Department of Education shall initiate an investigation to determine whether the consolidated application and school plans were developed in accordance with law and with the involvement of appropriate advisory committees and school site councils.

School districts shall submit, in a form designated by the Superintendent of Public Instruction, pupil data confirming compliance with the requirements of bilingual education programs pursuant to Article 3 (commencing with Section 52160) of Chapter 7 of Part 28. Pupil and fiscal data and school plans shall be used as the basis for determining compliance with the provisions of state law and regulations concerning bilingual education programs, and shall include a reasonable sample of schools participating in the programs.

(b) Onsite school program and district compliance reviews of categorical programs shall continue, and school plans shall be required and reviewed as part of these onsite visits and compliance reviews.

(c) School districts shall ensure that for each school in a district operating categorical programs subject to this part, school plans and onsite program reviews are conducted at least once every three years, commencing in the 1984–85 school year, by independent persons not employed by the school district. The Superintendent of Public Instruction shall adopt regulations establishing criteria for these reviews and shall develop a process for State Department of Education training and validation concerning these reviews.

The Superintendent of Public Instruction may authorize a school district, on a school-by-school or districtwide basis, to conduct these reviews at least once every four, five, or six years, instead of at least once every three years, if he or she specifically determines that the school district has a history of operating high quality categorical programs subject to this part, in the particular school or in the district as a whole.

(d) A school district shall submit school plans whenever the State Department of Education requires the plans in order to effectively administer any categorical program subject to this part. The State Department of Education shall require submission of the school plan for any school which is the specific subject of a complaint involving

any categorical program or service subject to this part.

The State Department of Education may require a school district to submit such other data or information as may be necessary for the department to effectively administer any categorical program subject to this part.

CHAPTER 1319

An act to amend Section 11837.1 of the Health and Safety Code, and to amend Sections 23161, 23181, and 23205 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 21, 1984. Filed with Secretary of State September 21, 1984.]

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

SECTION 1. Section 11837.1 of the Health and Safety Code is amended to read:

11837.1. (a) In utilizing any such program, the court shall require periodic reports concerning the performance of each person referred to and participating in a program. The program shall also provide the court, the Department of Motor Vehicles, and the person referred to and participating in a program, with an immediate report, within five days, of any failure of the person to comply with the program's rules and regulations. If, at any time after entry into or while participating in a program, a participant fails to comply with the rules and regulations of the program, and that fact is reported, the Department of Motor Vehicles shall revoke or suspend the privilege of that person to operate a motor vehicle for the period prescribed by law in accordance with Section 13352.5 of the Vehicle Code, except as otherwise provided in this section. The Department of Motor Vehicles shall notify the person and the court of its intended action and shall inform the person of the opportunity to be reinstated in the program and to avoid suspension of the driving privilege.

(b) Notwithstanding the provisions of subdivision (a), the Department of Motor Vehicles shall not suspend the driving privilege pursuant to subdivision (a) if the court, upon the petition of the person, determines that the person should be reinstated in the program. The determination by the court shall be made within 45 days of the notice from the department of the intended action or such additional time, not to exceed an additional 45 days, for the determination as is required, ordered, and transmitted to the Department of Motor Vehicles by the court, which additional time is not caused by any action or failure to act by the person. Upon timely presentation by the person to the Department of Motor Vehicles of evidence satisfactory to the Department of Motor Vehicles that the court of jurisdiction has consented to the person's

reinstatement in the program and that the person is currently participating in the program, the Department of Motor Vehicles shall continue in effect the restriction of the driving privilege prescribed by Section 13352.5 of the Vehicle Code unless the person has previously been reinstated in the program on two or more prior occasions, in which case the department shall suspend or revoke the driving privilege for the time prescribed in paragraph (3) or (4) of subdivision (a) of Section 13352 of the Vehicle Code. If the court fails to grant the person's petition for reinstatement in the program, the court shall suspend the person's driving privilege until the time the person's driving privilege is suspended or revoked by the Department of Motor Vehicles pursuant to subdivision (d) of Section 13352.5 of the Vehicle Code.

(c) If, at any time after referral to or while participating in a program, a participant refuses, for any reason, to consent to a chemical test that he or she is required to submit to pursuant to Section 13353 of the Vehicle Code, his or her participation in the program shall be terminated and the Department of Motor Vehicles shall immediately suspend or revoke his or her privilege to operate a motor vehicle for the period prescribed in Section 13352 of the Vehicle Code, according to the offense for which he or she was convicted immediately prior to referral to the program. The period of suspension or revocation shall be in addition to the period of suspension imposed by the Department of Motor Vehicles pursuant to Section 13353 of the Vehicle Code.

(d) In the event the department withdraws approval of a program, the department shall immediately notify the Department of Motor Vehicles of those persons who do not commence participation in an approved program within 21 days from the date of the withdrawal of approval of the program in which the persons were previously participating. The Department of Motor Vehicles shall suspend or revoke, for the period prescribed by law, the privilege to operate a motor vehicle of each of these persons.

SEC. 2. Section 23161 of the Vehicle Code is amended to read:

23161. (a) If the court grants probation to any person punished under Section 23160, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as a condition of probation that the person be subject to one of the following:

(1) Be confined in the county jail for at least 48 hours but not more than six months and pay a fine of at least three hundred ninety dollars ($390) but not more than five hundred dollars ($500). The court may order the Department of Motor Vehicles to suspend the privilege to operate a motor vehicle pursuant to paragraph (1) of subdivision (a) of Section 13352 when this condition of probation is imposed.

(2) Pay a fine of at least three hundred ninety dollars ($390) but not more than five hundred dollars ($500) and have the privilege to operate a motor vehicle restricted for 90 days to necessary travel to and from that person's place of employment and to and from the

program described in subdivision (b) and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment.

(b) In any county where the county alcohol program administrator has certified and the board of supervisors has approved such a program or programs, the court shall also impose as a condition of probation that the driver shall participate in, and successfully complete, an alcohol or drug education program, or both of these programs, as designated by the court.

(c) Each county which has approved and certified an alcohol or drug education program or programs shall make provision for persons who cannot afford the program fee, in order to enable those persons to participate.

(d) In order to assure effectiveness of the alcohol or drug education program, the county shall provide, as appropriate, services to ethnic minorities, women, youth, or any other group that has particular needs related to the program.

(e) Any person required to successfully complete an alcohol or drug education program as a condition of probation shall enroll in the program and shall furnish proof of the enrollment to the court within 60 days of the court order, excluding any time of imprisonment ordered by the court. The person shall also participate in, and successfully complete, the program, and shall furnish proof of successful program completion within 120 days of the court order, excluding any time of imprisonment ordered by the court. The court shall revoke the person's probation pursuant to Section 23207, except for good cause shown, for the failure to comply with this subdivision.

SEC. 3. Section 23181 of the Vehicle Code is amended to read:

23181. (a) If the court grants probation to any person punished under Section 23180, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as a condition of probation that the person be confined in the county jail for at least five days but not more than one year and pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be suspended by the Department of Motor Vehicles pursuant to paragraph (2) of subdivision (a) of Section 13352.

(b) In any county where the county alcohol program administrator has certified, and the board of supervisors has approved, such a program or programs, the court shall also impose as a condition of probation that the driver shall participate in, and successfully complete, an alcohol or drug education program, as designated by the court.

(c) Each county which has approved and certified an alcohol or drug education program or programs shall make provision for persons who cannot afford the program fee, in order to enable those persons to participate.

(d) In order to assure effectiveness of the alcohol or drug

education program, the county shall provide, as appropriate, services to ethnic minorities, women, youth, or any other group that has particular needs related to the program.

(e) Any person required to successfully complete an alcohol or drug education program as a condition of probation shall enroll in the program and shall furnish proof of the enrollment to the court within 60 days of the court order, excluding any time of imprisonment ordered by the court. The person shall also participate in, and successfully complete, the program, and shall furnish proof of successful program completion within 120 days of the court order, excluding any time of imprisonment ordered by the court. The court shall revoke the person's probation pursuant to Section 23207, except for good cause shown, for the failure to comply with this subdivision.

SEC. 4. Section 23205 of the Vehicle Code is amended to read:

23205. (a) Upon any conviction of a violation of Section 23152 or 23153, any judge of the court may order a presentence investigation to determine whether a person convicted of the violation would benefit from treatment for persons who are habitual users of alcohol or drugs, and the court may order suitable treatment for the person, in addition to imposing any penalties required by this code.

(b) In determining whether to require, as a condition of probation, the participation in a program pursuant to subdivision (b) of Section 23161, subdivision (b) of Section 23166, subdivision (b) of Section 23171, subdivision (b) of Section 23181, subdivision (b) of Section 23186, or subdivision (b) of Section 23191, the court may consider any relevant information about the person made available pursuant to a presentence investigation, which is permitted but not required by subdivision (a), or other screening procedure. No such information shall be furnished to the court, however, by any person who also provides services in a privately operated, approved program or who has any direct interest in a privately operated, approved program. In addition, the court shall obtain from the Department of Motor Vehicles a copy of the person's driving record to determine whether the person is eligible to participate in an approved program pursuant to the provisions of this article.

(c) The Judicial Council shall adopt a standard form for use by all courts, defendants, and alcohol or drug education programs in certifying to the court that the person (1) has enrolled within the specified time period, and (2) has successfully completed any program required by Section 23161 or 23181.

SEC. 5. Section 23205 of the Vehicle Code is amended to read:

23205. (a) Upon any conviction of a violation of Section 23152 or 23153, any judge of the court may order a presentence investigation to determine whether a person convicted of the violation would benefit from one or more education, training, or treatment programs, and the court may order suitable education, training, or treatment for the person, in addition to imposing any penalties required by this code.

(b) In determining whether to require, as a condition of

probation, the participation in a program pursuant to subdivision (b) of Section 23161, subdivision (b) of Section 23166, subdivision (b) of Section 23171, subdivision (b) of Section 23176, subdivision (b) of Section 23181, subdivision (b) of Section 23186, or subdivision (b) of Section 23191, the court may consider any relevant information about the person made available pursuant to a presentence investigation, which is permitted but not required by subdivision (a), or other screening procedure. No such information shall be furnished to the court, however, by any person who also provides services in a privately operated, approved program or who has any direct interest in a privately operated, approved program. In addition, the court shall obtain from the Department of Motor Vehicles a copy of the person's driving record to determine whether the person is eligible to participate in an approved program pursuant to the provisions of this article.

(c) The Judicial Council shall adopt a standard form for use by all courts, defendants, and alcohol or drug education programs in certifying to the court that the person (1) has enrolled within the specified time period, and (2) has successfully completed any program required by Section 23161 or 23181.

SEC. 6. Section 5 of this bill incorporates amendments to Section 23205 of the Vehicle Code proposed by both this bill and AB 3833. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 23205 of the Vehicle Code, and (3) this bill is enacted after AB 3833, in which case Section 4 of this bill shall not become operative.

SEC. 7. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 8. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1320

An act to amend Sections 20017.95, 20017.96, 20017.97, 20017.98, 20017.99, 21022.2, 21252.02, 22013.96, 75075, 75090, 75104, and 75106 of, to add Sections 21252.021, 21292.2, and 22822 to, and to repeal Sections 20980.4 and 20983.5 of, the Government Code, relating to

public retirement systems, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1984. Filed with Secretary of State September 24, 1984.]

I am deleting the $340,700 appropriation contained in Section 13 of Senate Bill No. 1493.

I amd deleting the $340,700 appropriation because there is no workload information to support this level of expenditure or to indicate additional funds beyond existing resources. This funding request can be addressed through the budget process.

With this deletion, I approve Senate Bill No. 1493.

George Deukmejian

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

SECTION 1. Section 20017.95 of the Government Code, as added by Chapter 280 of the Statutes of 1984, is amended to read:

20017.95. "State peace officer/firefighter member" means:

(a) All persons in the Department of Alcoholic Beverage Control, the Board of Prison Terms, the Department of Consumer Affairs, the Department of Developmental Services, the Department of Health Services, the Horse Racing Board, the Department of Industrial Relations, the Department of Insurance, the Department of Mental Health, the Department of Motor Vehicles, the Department of Social Services employed with the class title of Special Investigator (Class Code 8553), Senior Special Investigator (Class Code 8550), Investigator Trainee (Class Code 8555), and Investigator Assistant (Class Code 8554) which have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

(b) All persons within the Department of Justice who are state employees as defined in subdivision (c) of Section 3513 and who have been designated as peace officers and performing investigative duties.

(c) All persons in the Department of Parks and Recreation employed with the class title of Park Ranger (Intermittent) (Class Code 0984) which have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

Any person so designated may elect, within 90 days of notification by the board, to remain subject to the service retirement benefit and normal rate of contribution applicable prior to the effective date of this section by filing an irrevocable notice of election with the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21251.13 only for service also included in the federal system.

SEC. 1.5. Section 20017.96 of the Government Code, as added by Chapter 280 of the Statutes of 1984, is amended, to read:

20017.96. "State peace officer/firefighter member" also includes officers and employees with the following class titles of:

Class Code	Classification
9694	Board Coordinating Parole Agent, Youthful Offender Parole Board
9774	Correctional Case Worker Trainee
9649	Correctional Program Supervisor
9903	Correctional Counselor II
9904	Correctional Counselor I
9662	Correctional Officer
9658	Correctional Officer Trainee
9911	Case Work Specialist, Youth Authority
9579	Group Supervisor
9578	Group Supervisor Trainee
8217	Medical Technical Assistant, Correctional Facility
9701	Parole Agent I, Youth Authority
9765	Parole Agent I, Adult Parole
9696	Parole Agent II, Youth Authority
9763	Parole Agent II, Adult Parole
8215	Senior Medical Technical Assistant
9590	Transportation Officer, Youth Authority
9581	Youth Counselor
6875	Air Operations Officer I
6877	Air Operations Officer I, Maintenance
6882	Air Operations Officer II, Maintenance
1050	Air Operations Officer III-Maintenance
1053	Air Operations Officer III
1056	Air Operations Officer II
1077	Fire Apparatus Engineer
1074	Fire Captain
1072	Fire Control Aid
1069	Fire Crew Supervisor
1082	Firefighter, California Department of Forestry
1083	Seasonal firefighter, California Department of Forestry
1046	Forestry Helicopter Pilot
1047	Fire Prevention Officer I
1049	Fire Prevention Officer II
1054	Forester I
1060	Forestry Aid
6387	Heavy Fire Equipment Operator
1055	Junior Forester
8997	Arson/Bomb Investigator
8972	Deputy State Fire Marshal II
8975	Deputy State Fire Marshal I
9043	Food and Drug Investigator I

9039	Food and Drug Investigator II
9042	Food and Drug Investigator III
9001	Firefighter/Correctional Institutions
8416	Lt. Fish and Game Patrol Boat
0992	Life Guard
1992	Museum Security Officer I
0890	Park Safety/Enforcement Specialist
8359	Sgt. California State Police
8464	State Police Officer
0983	State Park Ranger I
0981	State Park Technician
8358	State Security Officer
8989	Supervisor Firefighter/Security Guard
8410	Warden/Pilot Fish and Game
8990	Firefighter/Security Guard
8979	Firefighter
8421	Fish and Game Warden
8418	Fish and Game Patrol, Lieutenant
9028	Food and Drug Program Coordinator
9007	Food Technology Specialist
9088	Fire Service Training Specialist I
9089	Fire Service Training Specialist II
9090	Fire Service Training Specialist III
1937	Hospital Peace Officer I
9013	Deputy State Fire Marshal III Specialist
8567	Investigator Trainee, Food and Agriculture
0989	Aquatic Specialist
0982	State Park Ranger Trainee

Any person so designated may elect, within 90 days of notification by the board, to remain subject to the service retirement benefit and the normal rate of contribution applicable prior to the effective date of this section by filing an irrevocable notice of election with the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21251.13 only for service also included in the federal system.

SEC. 2. Section 20017.97 of the Government Code, as added by Chapter 280 of the Statutes of 1984, is amended to read:

20017.97. "State peace officer/firefighter member" also means:

(a) All persons in the Department of Corporations, Office of the Controller, and the Public Employees' Retirement System employed on a full-time permanent basis with the class title of Special Investigator (Class Code 8553), Senior Special Investigator (Class Code 8550), Investigator Trainee (Class Code 8555) and Investigator Assistant (Class Code 8554) who have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

(b) All persons employed on a full-time permanent basis with the class title of Sergeant State Fair Police (Class Code 1946), State Fair Police Officer (Class Code 1945), Senior Investigator, Structural Pest

Control Board (Class Code 8821), Investigator Structural Pest Control Board (Class Code 8802), District Representative I and II, Division of Codes and Standards (Class Codes 8960 and 8958), Deputy Registrar of Contractors I and II (Class Codes 8793 and 8792), Polygraph Examiners, California Youth Authority (Class Code 8542), Community Services Consultant I (Class Code 9717), or Parole Service Associate (Class Code 9776) who have been designated as peace officers as defined in Sections 830.2, 830.3, and 830.5 of the Penal Code.

(c) All persons employed on a full-time permanent basis with the class title of Deputy State Fire Marshal Intern (Class Code 8980).

Any person so designated may elect, within 90 days of notification by the board, to remain subject to the service retirement benefit and the normal rate of contribution applicable prior to the effective date of this section by filing an irrevocable notice of election with the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21251.13 only for service also included in the federal system.

This section shall not become applicable to any member so designated until such time as a ruling or regulation authorizing the inclusion of persons so designated within the definition of "policeman or fireman" is issued by the federal agency for purposes of Section 218(d) (5) (A) of the Social Security Act.

SEC. 3. Section 20017.98 of the Government Code, as added by Chapter 280 of the Statutes of 1984, is amended to read:

20017.98. "State peace officer/firefighter member" means all members who are full-time permanent employees represented in Corrections Unit No. 6, Protective Services and Public Safety Unit No. 7, and Firefighters Unit No. 8 and are employed after the operative date of this section in class titles which are designated as peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code or are firefighters whose principal duties consist of active firefighting/fire suppression.

A member who is employed in a position that is reclassified from state miscellaneous to state peace officer/firefighter pursuant to this section, may make an irrevocable election in writing to remain subject to the miscellaneous service retirement benefit and the normal rate of contribution by filing a notice of the election with the board within 90 days of notification by the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21251.13 only for service also included in the federal system.

This section shall not become applicable to any member included in a classification until such time as a ruling or regulation authorizing the inclusion of persons employed in that classification within the definition of "policeman or fireman" is issued by the federal agency for purposes of Section 218(d) (5) (A) of the Social Security Act.

SEC. 3.2. Section 20017.99 of the Government Code, as added by Chapter 280 of the Statutes of 1984, is amended to read:

20017.99. "State peace officer/firefighter member" also includes

state officers and employees who have been designated as a peace officer as defined in Sections 830.1, 830.2, 830.3, 830.4, and 830.5 of the Penal Code, except patrol members, or a firefighter whose principal duties consist of active firefighting/fire suppression, who are either excluded from the definition of state employee in subdivision (c) of Section 3513 or is a supervisory employee as defined in Section 3522.1, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service, provided, that those officers and employees have responsibility for the direct supervision of state peace officer/firefighter personnel specified in Sections 20017.95, 20017.96, 20017.97, and 20017.98. The Department of Personnel Administration shall, on an annual basis, determine which classes meet the above conditions and are not classes specified in Sections 20017.95, 20017.96, 20017.97, and 20017.98, and report its findings to the Legislature and to the Public Employees' Retirement System, to be effective July 1 of each year.

Any person so designated may elect, within 90 days of notification by the board, to remain subject to the service retirement benefit and the normal rate of contribution applicable prior to the effective date of this section by filing an irrevocable notice of election with the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21251.13 only for service also included in the federal system.

This section shall not become applicable to any member so designated until such time as a ruling or regulation authorizing the inclusion of persons so designated within the definition of "policeman or fireman" is issued by the federal agency for purposes of Section 218(d)(5)(A) of the Social Security Act.

SEC. 3.4. Section 20980.4 of the Government Code, as added by Chapter 280 of the Statutes of 1984, is repealed.

SEC. 4. Section 20983.5 of the Government Code, as amended by Chapter 280 of the Statutes of 1984, is repealed.

SEC. 5. Section 21022.2 of the Government Code is amended to read:

21022.2. "Member" for purposes of Section 21022 also includes state miscellaneous members employed by the Department of Justice who perform the duties now performed in positions with the class title of Criminalist I (Class Code 8468), Criminalist II (Class Code 8476), Criminalist III (Class Code 8478), Criminalist IV (Class Code 8477), or Criminalist V (Class Code 8467), and state miscellaneous members employed by the Department of California Highway Patrol who perform the duties now performed in positions with the class title of Communications Operator I (Class Code 1663), Communications Operator II (Class Code 1664), Communications Supervisor (Class Code 1662), or Communications Supervisor II (Class Code 1665).

SEC. 6. Section 21252.02 of the Government Code, as amended by Chapter 280 of the Statutes of 1984, is amended to read:

21252.02. The combined current and prior service pensions for

state peace officer/firefighter members subject to this section with respect to state peace officer/firefighter service which is subject to the provisions of this section is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity which is derived from the accumulated normal contributions of the state peace officer/firefighter member at the date of his or her retirement to equal the fraction of one-fiftieth of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter-year, in the following table, multiplied by the number of years of state peace officer/firefighter service subject to this section with which he or she is credited at retirement.

Age at retirement	Fraction
50	1.0000
50¼	1.0125
50½	1.0250
50¾	1.0375
51	1.0500
51¼	1.0625
51½	1.0750
51¾	1.0875
52	1.1000
52¼	1.1125
52½	1.1250
52¾	1.1375
53	1.1500
53¼	1.1625
53½	1.1750
53¾	1.1875
54	1.2000
54¼	1.2125
54½	1.2250
54¾	1.2375
55 and over	1.2500

In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount which, when added to the service retirement annuity related to such service, equals 75 percent of final compensation. If the pension relates to service to more than one employer, or this section and Section 21252.6, and would otherwise exceed such maximum, the pension payable with respect to each section or employer shall be reduced in the same proportion as the allowance bears to the total allowance computed as though there were no limit, so that the total of such pensions shall equal the maximum.

The Legislature reserves, with respect to any member subject to

this section, the right to provide for such adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

This section may be applied to related supervisory classes or confidential positions for the respective bargaining units specified in this section.

This section shall be operative with respect to state peace officer/firefighter members in Corrections Bargaining Unit No. 6, Protective Services and Public Safety Bargaining Unit No. 7, or Firefighters Bargaining Unit No. 8, in accordance with a memorandum of understanding is reached between the state and the exclusive bargaining agent in the respective unit pursuant to the State Employer-Employee Relations Act, Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1.

Nothing in this section or in any other provision of law affected by the bill amending this section in 1984 of the 1983–84 Regular Session of the Legislature shall be construed as authorizing any future negotiation with respect to whether or not any bargaining unit specified in this section whose memorandum of understanding was previously approved by the Legislature pursuant to law and this section, shall continue to remain within the state peace officer/firefighter membership category.

The operative date of this section with respect to members in each of the bargaining units specified in this section shall be as provided for in the memorandum of understanding.

This section shall not apply to a person whose effective date of retirement is prior to the operative date of this section with respect to the bargaining unit of the person.

This section shall be known as, and may be cited as the State Peace Officers' and Fire Fighters' Retirement Act.

The Legislature reserves the right to subsequently modify or amend this part in order to completely effectuate the intent and purposes of this section and the right to not provide any new comparable advantages if disadvantages to employees result from any such modification or amendment.

SEC. 7. Section 21252.021 is added to the Government Code, to read:

21252.021. Notwithstanding any other provision of law, Section 21252.02 shall be deemed to be operative on July 1, 1984.

SEC. 8. Section 21292.2 is added to the Government Code, to read:

21292.2. Upon the industrial disability retirement of a state miscellaneous member within Section 21022.2 who is not subject to Section 21292.6, the disability allowance shall be 50 percent of his or her final compensation plus an annuity purchased with his or her accumulated additional contributions, if any, or, if qualified for service

retirement, he or she shall receive his or her service retirement allowance, if such allowance, after deducting the annuity, is greater.

This section shall become operative on December 1, 1983.

SEC. 9. Section 22013.96 of the Government Code, as added by Chapter 280 of the Statutes of 1984, is amended to read:

22013.96. (a) "Policeman" or "fireman," as used in this part, also includes persons employed in positions set forth in Section 20017.98, as amended in 1984, provided, such designation is not contrary to any definition, ruling, or regulation relating to the term "policeman" or "fireman" issued by the federal agency for the purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

(b) This section shall not become operative until such time as a ruling or regulation authorizing the inclusion of persons employed in classifications set forth in Section 20017.98 within the definition of "policeman" or "fireman" is issued by the federal agency for purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

SEC. 9.2. Section 22822 is added to the Government Code, to read:

22822. Notwithstanding any other provision of this chapter, with respect to state officers and employees, an intermittent employee, who has an appointment of more than six months and works at least half-time, shall be eligible to enroll or register not to enroll for health benefits within 60 calendar days after having been credited with a minimum of 480 paid hours within one of two designated 6-month periods in a calendar year. To continue benefits, an intermittent employee must be credited with a minimum of 480 paid hours in a designated 6-month period or 960 paid hours in two consecutive designated 6-month periods. For the purposes of this section, the designated 6-month periods are January 1 through June 30 and July 1 through December 31 of each calendar year.

SEC. 9.8. Section 75075 of the Government Code is amended to read:

75075. Any judge hereafter retiring pursuant to the provisions of Section 75025 or Section 75060 may elect to receive the benefits accorded by this article (a) if he retires on the day of attainment of the age of 70 years, or prior thereto, or (b) regardless of age at retirement, if he is a judge on September 18, 1959, or his commission was issued on or before that date and (1) retires within five years after such date or (2) if not eligible to retire within said five-year period, he retires within two years after he attains eligibility.

Every judge who qualifies under this section shall be deemed to elect to receive the benefits accorded by this article, unless he makes an election to the contrary by filing written notice thereof with the Judges' Retirement System at or prior to retirement.

Any judge whose service would qualify him for any benefits under this article if the total of such service included an additional 30 days, shall be deemed to have credited to him, sufficient service to qualify

for the benefit.

SEC. 10. Section 75090 of the Government Code is amended to read:

75090. The benefits of this article are payable only to the surviving spouse of a judge who elects to come within this article. Any person who becomes a judge after the effective date of the amendment to this section made at the 1964 First Extraordinary Session may elect to come within this article within six months after becoming a judge or three months after notice is mailed to him by the Judges' Retirement System. Election to come within this article is made by filing written notice thereof with the Judges' Retirement System. Any such election by a judge may thereafter be revoked by the judge and a reelection may be made at any time after such revocation.

SEC. 11. Section 75104 of the Government Code is amended to read:

75104. (a) Except as otherwise provided in subdivisions (b) and (c), should any judge die, resign, or cease to be a judge prior to his retirement, or die after electing to allow his accumulated contributions to remain in the fund pursuant to Section 75033 but prior to attaining age 65, the amount of his accumulated contribution shall be paid to his beneficiary nominated by written designation duly filed with the Judges' Retirement System, or to him, as the case may be. If an allowance is paid to a surviving spouse pursuant to this chapter, no payment shall be made pursuant to this section.

(b) A judge who has filed a declaration of candidacy for election or reelection to any judicial office may not withdraw his contributions until after the election. If a judge is elected or reelected to a judicial office, he may not withdraw his contributions until such time as he has declined to accept the office or has ceased to hold the office to which he has been elected.

(c) A judge who has been appointed, commissioned, or nominated to any judicial office of this state may not withdraw his contributions until he has declined to serve or terminated his service in the latter office.

SEC. 12. Section 75106 of the Government Code is amended to read:

75106. The State Treasurer is the custodian of the Judges' Retirement Fund. At the end of each month the State Controller shall ascertain the written notices of voluntary retirement and the written certificates of involuntary retirement which have been filed with the Judges' Retirement System and cause warrants to be drawn upon the State Treasury in favor of each retired judge for the amount of the retirement allowance to which he is entitled.

SEC. 13. There is hereby appropriated from the Public Employees' Retirement Fund to the Board of Administration of the Public Employees' Retirement System the sum of three hundred forty thousand seven hundred dollars ($340,700), without regard to fiscal year, for expenditure for implementing Chapter 280 of the Statutes of 1984.

SEC. 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the new retirement formula authorized by Chapter 280 of the Statutes of 1984 may be implemented at the commencement of the 1984–85 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 1321

An act to add Sections 46619 and 46620 to the Education Code, relating to interdistrict attendance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 24, 1984. Filed with Secretary of State September 24, 1984]

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

SECTION 1. Section 46619 is added to the Education Code, to read:

46619. Notwithstanding any other provision of law, the Fallbrook Union High School District shall enter into an interdistrict attendance agreement with the Capistrano Unified School District to allow any pupil, at the request of his or her parent or guardian, to attend schools of the Capistrano Unified School District when the pupil resides in the San Onofre housing area of the Marine Corps Base, Camp Joseph H. Pendleton. No more than 150 pupils from the Fallbrook Union High School District may attend school in the Capistrano Unified School District pursuant to this interdistrict attendance agreement.

The Fallbrook Union High School District shall be credited with the average daily attendance of these pupils for the purpose of determining state apportionments and revenue limits and for the purpose of receiving federal grants pursuant to Public Law 81-874.

The Fallbrook Union High School District shall pay tuition to the Capistrano Unified School District for the attendance of these pupils only in the amount of the state apportionments paid to the Fallbrook Union High School District for the attendance of these pupils, plus an amount computed as follows:

(a) Divide the amount of funds paid pursuant to Section 3 of Public Law 81-874 (20 U.S.C. 238) to the Fallbrook Union High School District in the current fiscal year by the average daily attendance of the district in the current fiscal year.

(b) Multiply the amount in subdivision (a) by the average daily attendance, for the year of attendance for secondary school pupils attending the schools of the Capistrano Unified School District

pursuant to Section 46619.

SEC. 2. Section 46620 is added to the Education Code, to read:

46620. (a) When an interdistrict attendance agreement is entered into pursuant to Section 46619, the Superintendent of Public Instruction shall apportion from Section A of the State School Fund to the Capistrano Unified School District the allowance computed in subdivision (b) for educating secondary school pupils attending pursuant to the agreement during the year the pupils are in attendance in that district reduced by the amounts payable to Capistrano Unified School District by the Fallbrook Union High School District pursuant to Section 46619.

(b) The Superintendent of Public Instruction shall compute an allowance for educating secondary school pupils, as follows:

(1) Compute, for the year of attendance, the statewide average revenue limit per unit of average daily attendance for high school districts with more than 300 units of average daily attendance.

(2) From the amount in paragraph (1), subtract one hundred dollars ($100).

(3) Multiply the amount in paragraph (2) by the average daily attendance, for the year of attendance, for secondary school pupils attending the schools of the Capistrano Unified School District pursuant to Section 46619.

SEC. 3. Sections 1 and 2 of this act shall become operative July 1, 1984.

SEC. 4. Due to the unique circumstances concerning the Fallbrook Union High School District and the Capistrano Unified School District, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution.

SEC. 5. The sum of one hundred fifty-three thousand dollars ($153,000) is hereby appropriated from the General Fund to Section A of the State School Fund, for apportionment by the Superintendent of Public Instruction to the Capistrano Unified School District in the 1984–85 fiscal year for the number of units of average daily attendance attributable to pupils transferred pursuant to Section 46619.

SEC. 6. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the act to operate for the entire 1984–85 school year, and so simplify the computation of the payments required by this act, it is necessary that this act take effect immediately.

CHAPTER 1322

An act to add and repeal Section 11580.10 of the Insurance Code, to add Section 1463.22 to the Penal Code, and to amend Section 6850 of, to add and repeal Sections 16028, 16029, 16030, 16031, 16032, 16033, 16034, and 16035 of, to repeal and add Section 4152.5 of, and to repeal and add Article 1 (commencing with Section 6700) of Chapter 4 of Division 3 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 25, 1984.]

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

SECTION 1. Sections 2, 9, 10, 11, 12, 13, 14, 15, and 16 of this act shall be known and may be cited as the Robbins-McAlister Financial Responsibility Act.

SEC. 2. Section 11580.10 is added to the Insurance Code, to read:

11580.10. Any liability insurer issuing or renewing an automobile liability policy or a motor vehicle liability policy within the meaning of subdivision (a) of Section 16054 of the Vehicle Code shall provide written notice to the named insured of the policy identification number that may be used for verifying financial responsibility for purposes of Section 16028 of the Vehicle Code. This notice may be provided in a written binder, if any, or in the policy documents provided upon issuance or renewal of the policy.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date.

SEC. 3. Section 1463.22 is added to the Penal Code, to read:

1463.22. (a) Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463 ten dollars ($10) for each alleged violation of Section 16028 of the Vehicle Code shall be deposited by the county treasurer in a special account and allocated to defray costs of municipal and justice courts incurred in administering Sections 16028, 16030, and 16031 of the Vehicle Code. The amount required to be deposited in a special account pursuant to this subdivision shall be deposited regardless of whether the charge is dismissed pursuant to subdivision (d) of Section 16028 of the Vehicle Code or otherwise. Any moneys in the special account in excess of the amount required to defray those costs shall be redeposited and distributed by the county treasurer pursuant to Section 1463.

(b) Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, three dollars ($3) for each conviction for a violation of Section 16028 of the Vehicle Code shall be initially deposited by the county treasurer in a special account, and shall be transmitted once per month to the Controller for deposit in the Motor Vehicle Account in the State Transportation

Fund. These moneys shall be available, when appropriated, to defray the department's administrative costs incurred pursuant to Sections 16031, 16032, 16034, and 16035 of the Vehicle Code. It is the intent of this subdivision to provide sufficient revenues to pay for all of the department's costs in administering Sections 16031, 16032, 16034, and 16035 of the Vehicle Code.

(c) Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, ten dollars ($10) for each alleged violation of Section 16028 of the Vehicle Code shall be deposited by the county treasurer in a special account and shall be transmitted monthly to the Controller for deposit in the General Fund. The amount required to be deposited in the county's special account pursuant to this subdivision shall be deposited regardless of whether the charge is dismissed pursuant to subdivision (d) of Section 16028 of the Vehicle Code or otherwise.

SEC. 4. Section 4152.5 of the Vehicle Code is repealed.

SEC. 5. Section 4152.5 is added to the Vehicle Code, to read:

4152.5. When California registration is required of a vehicle last registered in a foreign jurisdiction, an application for registration shall be made to the department within 20 days following the date registration became due. The application shall be deemed an original application.

SEC. 6. Article 1 (commencing with Section 6700) of Chapter 4 of Division 3 of the Vehicle Code is repealed.

SEC. 7. Article 1 (commencing with Section 6700) is added to Chapter 4 of Division 3 of the Vehicle Code, to read:

Article 1. Exemption of Nonresidents

6700. (a) The owner of any vehicle of a type otherwise subject to registration under this code, other than a commercial vehicle registered in a foreign jurisdiction, may operate the vehicle in this state until gainful employment is accepted in this state or until residency is established in this state, whichever occurs first, provided the vehicle displays valid license plates and has a valid registration issued to the owner, and the owner was a resident of that state at the time of issuance.

(b) A nonresident owner of a vehicle, otherwise exempt from registration pursuant to this section, may operate or permit operation of the vehicle in this state without registering the vehicle in this state if the vehicle is registered in the place of residence of the owner and displays upon it valid license plates issued by that place. This exemption does not apply if the nonresident owner rents, leases, lends, or otherwise furnishes the vehicle to a California resident for regular use on the highways of this state, as defined in subdivision (b) of Section 4000.4.

(c) Any resident who operates upon a highway of this state a vehicle owned by a nonresident who furnished the vehicle to the resident operator for his or her regular use within this state, as

defined in subdivision (b) of Section 4000.4, shall cause the vehicle to be registered in California within 20 days after its first operation within this state by the resident.

(d) Nothing in this section supersedes the requirements of Section 6851.

6701. (a) Any nonresident owner of a vehicle registered in a foreign state who is a member of the armed forces of the United States, on active duty within this state, shall be permitted to operate the vehicle in this state without securing California registration after satisfying all of the following requirements:

(1) The license plates displayed on the vehicle are valid plates issued by a foreign jurisdiction.

(2) The vehicle registration and license plates are issued to the nonresident military person.

(3) The vehicle registration and license plates were issued by the foreign jurisdiction where the military person was last regularly assigned and stationed for duty by military orders or a jurisdiction claimed by the military person as the permanent state of residence.

(4) If the vehicle is a motor vehicle, the owner or driver has in force one of the forms of financial responsibility specified in Section 16021.

(b) For the purposes of paragraph (3) of subdivision (a), military orders shall not include military orders for leave, for temporary duty, or for any other assignment of any nature requiring the military person's presence outside the foreign jurisdiction where the owner was regularly assigned and stationed for duty.

(c) This section applies to all vehicles owned by the military person except any commercial vehicle used in any business manner wherein the military person receives compensation.

6702. Every nonresident, including any foreign corporation, having an established place of business within this state, and regularly using a vehicle of a type subject to registration under this code, shall immediately register the vehicle upon entry into this state.

6703. Any person entering California following discharge from the armed forces of the United States is exempted from registration of passenger vehicles, trailer coaches, and utility trailers only, as provided for and under the conditions prescribed in Section 6700.

SEC. 8. Section 6850 of the Vehicle Code is amended to read:

6850. A nonresident owner of any foreign commercial vehicle shall register the vehicle in this state and pay the fees applicable thereto under this code, except as provided in this article and Article 3 (commencing with Section 8000), and except in the event the vehicle is lawfully registered as a private passenger vehicle in the foreign jurisdiction in which the owner has residence, in which case Section 6700 shall apply.

SEC. 9. Section 16028 is added to the Vehicle Code, to read:

16028. (a) Every person who drives a motor vehicle required to be registered in this state upon a highway shall, when requested by

a peace officer pursuant to subdivision (c), provide evidence of financial responsibility for the vehicle.

Except as otherwise provided in this subdivision and subdivisions (d) and (e), any person who violates this subdivision is guilty of an infraction and shall be punished for each offense by a fine of seventy-five dollars ($75) and an additional penalty assessment of twenty-five dollars ($25). If (1) the citation is issued pursuant to subdivision (c) on a notice to appear for violation of Section 23152, and (2) the driver is convicted of violating Section 23152, then the penalty upon conviction for violation of subdivision (a) is a fine of one hundred eighty dollars ($180) and an additional penalty assessment of sixty dollars ($60). Each defendant shall be fined and assessed a penalty assessment in the amount specified in this section, upon conviction, unless the court determines that in the interests of justice the fine and the penalty assessment should be reduced. Any reduction of the fine and penalty assessment shall be in the same proportion and the court shall state the reasons for reducing the fine and assessment on the record.

In lieu of the fine and penalty assessment otherwise assessable under this subdivision, the court may permit the defendant to perform community service designated by the court.

(b) (1) For purposes of this section, "evidence of financial responsibility" means either of the following:

(A) The name of the insurance or surety company which issued the automobile liability policy, motor vehicle liability policy, or bond meeting the requirements of Section 16056, in effect for the vehicle, and the number of the insurance policy or surety bond.

(B) If the owner is a self-insurer as provided in Section 16052 or a depositor as provided in Section 16054.2, the certificate or deposit number issued by the department.

(2) For purposes of this section, "evidence of financial responsibility" also includes the identifying symbol issued to a highway carrier by the Public Utilities Commission pursuant to Section 3543 of the Public Utilities Code and displayed on the motor vehicle.

(c) Whenever a notice to appear is issued for any alleged violation of this code, except a violation specified in Chapter 9 (commencing with Section 22500) of Division 11 or any local ordinance adopted pursuant thereto, the cited driver shall furnish oral or written evidence of financial responsibility, as defined by subdivision (b), upon request of the peace officer issuing the citation. The peace officer shall request and write the driver's evidence of financial responsibility on the notice to appear, except where the peace officer is unable to write the driver's evidence of financial responsibility on the notice to appear due to an emergency that requires his or her presence elsewhere. If the cited driver fails to provide evidence of financial responsibility at the time the notice to appear is issued, the peace officer may issue the driver a notice to appear for violation of subdivision (a). The notice to appear for violation of subdivision (a)

shall be written on the same citation form as the original violation.

(d) A person cited in a notice to appear for violation of subdivision (a) may personally appear before the clerk of the court, as designated in the notice to appear, and provide written evidence of financial responsibility that is acceptable to the clerk of the court showing that the driver was in compliance with Section 16020 at the time the notice to appear for violating subdivision (a) was issued. In lieu of a personal appearance, the person may submit written evidence of financial responsibility by mail to the court. Upon receipt by the clerk of written evidence of financial responsibility that is acceptable to the court, further proceedings on the notice to appear for the violation of subdivision (a) of Section 16028 shall be dismissed, subject to Section 16031.

(e) If a driver cited for a violation of subdivision (a) is, at the time of issuance of the notice to appear, driving a motor vehicle owned, operated, or leased by the employer of the driver and driven with the permission of the employer, this section and Sections 16031 and 16032 apply to the employer rather than the driver. In that case, the notice to appear shall be issued to the employer, rather than the driver, and the driver may sign the notice to appear on behalf of the employer, and shall notify the employer of the citation within five days after issuance thereof.

(f) Penalty assessments collected pursuant to subdivision (a) shall be deposited in the county's Courthouse Temporary Construction Fund established pursuant to Section 68073.1, 68073.2, 68073.3, or 68073.6 of the Government Code.

(g) Penalty assessments otherwise authorized by subdivision (a) shall not be imposed unless Senate Bill 1394 of the 1983–84 Regular Session of the Legislature is enacted.

(h) This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date.

SEC. 10. Section 16029 is added to the Vehicle Code, to read:

16029. (a) Except as provided in subdivision (c) of this section, any person who provides false evidence of financial responsibility (1) when requested by a peace officer pursuant to subdivision (c) of Section 16028 or (2) to the clerk of the court as permitted by subdivision (d) of Section 16028, including an expired or canceled insurance policy, bond, or certificate or deposit number, is guilty of a misdemeanor punishable by a fine not exceeding five hundred dollars ($500) or imprisonment in the county jail not exceeding 30 days, or by both that fine and imprisonment. The court shall additionally suspend the driver's license of any person convicted of a violation of this subdivision for a period of one year commencing upon the date of the conviction, in accordance with Sections 13206 and 13207. Driver's licenses surrendered to the court pursuant to this section shall be transmitted by the court, together with the required report of the conviction, to the department within 10 days of the conviction. Upon conclusion of the period of suspension, the

department shall not return the driver's license until the licensee establishes proof of financial responsibility as prescribed by Section 16034.

(b) However, in lieu of suspending a person's driving privileges pursuant to subdivision (a), the court shall restrict the person's driving privileges to driving that is required in the person's course of employment, if driving of a motor vehicle is necessary in order to perform the duties of the person's primary employment. The restriction shall remain in effect for the period of suspension otherwise required by subdivision (a). The court shall provide for endorsement of the restriction on the person's driver's license, and violation of the restriction constitutes a violation of Section 14603 and grounds for suspension or revocation of the license under Section 13360.

(c) This section does not apply to a driver who is driving a motor vehicle owned, operated, or leased by the employer of the driver and driven with the permission of the employer.

(d) This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date.

SEC. 11. Section 16030 is added to the Vehicle Code, to read:

16030. (a) Each municipal and justice court shall each month select a current random sample of not to exceed 1 percent of notices to appear upon which evidence of financial responsibility has been written pursuant to subdivision (b) or (e) of Section 16028. Copies of the citations selected shall be transmitted to the department for verification. When an insurance or surety company or policy or bond number has been used as evidence of financial responsibility, the department shall verify the existence of the indicated insurance or surety coverage with the insurer or surety by negative verification.

For purposes of this subdivision, "negative verification" means that an insurer or surety shall be required to notify the department, upon inquiry by the department, only if the insurer or surety determines that no insurance policy or bond issued by it was in force at the time for which the department is inquiring.

(b) There shall be no liability on the part of, and no cause of action of any nature shall arise against, any insurer or surety, its authorized representatives, its agents, its employees, or any person furnishing or failing to furnish or incorrectly furnishing, verifying, or reporting the existence or nonexistence of insurance or surety coverage to the department in response to the negative verification process.

(c) If the department determines that a cited driver provided erroneous evidence of financial responsibility pursuant to subdivision (c) of Section 16028, it shall notify appropriate prosecuting authorities of the alleged violation of Section 16029. In addition, the department shall mail to any such driver a notice of intent to suspend the driver's license of that driver. Fifteen days after mailing the notice, the department shall immediately suspend the driver's license, unless the driver has, prior to that date, established

proof of financial responsibility, as specified in Section 16021, with the department. The suspension shall remain in effect until the person establishes financial responsibility with the department or until three years from the commencement of the suspension, whichever occurs first. During this three-year period, the suspension shall be reimposed for failure to maintain proof of financial responsibility in the same manner as specified in Article 3 (commencing with Section 16050).

In lieu of suspending a driver's license pursuant to this subdivision, the department shall restrict the driver's license to driving that is required in the course of the person's primary employment, if the department determines that the driving of a motor vehicle is necessary to perform the duties of that employment. The restriction shall remain in effect so long as suspension would otherwise be required by this subdivision.

This subdivision does not apply to a driver who is driving a motor vehicle owned, operated, or leased by the employer of the driver and driven with the permission of the employer.

(d) This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date.

SEC. 12. Section 16031 is added to the Vehicle Code, to read:

16031. (a) The notices to the department authorized by subdivisions (a) and (b) of Section 40509 shall be given in all instances of failure to appear or pay a fine for violation of subdivision (a) of Section 16028. Notwithstanding Section 13365, the department except as provided in subdivision (b) of this section and Section 16035 shall suspend the driving privilege of any person for whom this notification is received, as provided in Section 13365, regardless of whether there are prior notifications of violations of subdivision (a) of Section 40509 in the person's driving record.

(b) Where (1) a driver's employer is made responsible for a violation of subdivision (a) of Section 16028 pursuant to subdivision (e) of Section 16028 and (2) notice is provided to the department pursuant to subdivision (a) or (b) of Section 40509 for failure of the employer to appear or pay a fine on account of the violation, the department shall not thereafter renew the registration of the vehicle involved in the offense, if the employer is the owner of the vehicle, until the employer establishes and maintains proof of financial responsibility for the vehicle in the manner prescribed by Section 16034.

(c) This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date.

SEC. 13. Section 16032 is added to the Vehicle Code, to read:

16032. (a) Any unpaid fine or penalty assessment assessed by a court pursuant to Section 16028 or 16029 shall be a lien upon every vehicle registered to the person obligated to pay the fine or penalty assessment. The obligation of this lien may be enforced by seizure

and sale of any or all of these vehicles. The sale shall be conducted by the county in which the violation of Section 16028 or 16029 occurred and in the manner prescribed by Chapter 6.5 (commencing with Section 3067) of Title 14 of Part 4 of Division 3 of the Civil Code.

(b) This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date.

SEC. 14. Section 16033 is added to the Vehicle Code, to read:

16033. No public entity or employee is liable for any loss, detriment, or injury resulting directly or indirectly for failure to request evidence of financial responsibility or inaccurately recording the same under Section 16028, or as a result of the driver producing false or inaccurate financial responsibility information.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date.

SEC. 15. Section 16034 is added to the Vehicle Code, to read:

16034. (a) Every person convicted of a violation of subdivision (a) of Section 16028 shall, within 60 days of the conviction, file with the department and thereafter maintain for a period of three years, proof of financial responsibility in the same manner as specified in Article 3 (commencing with Section 16050). Every person convicted of a violation of Section 16029 shall, as a condition to (1) return of the person's driver's license following conclusion of the suspension under those provisions or (2) termination of restrictions imposed pursuant to subdivision (b) of Section 16029 one year after imposition thereof, file with the department and thereafter maintain for a period of three years, proof of financial responsibility in the same manner as specified in Article 3 (commencing with Section 16050). If proof of financial responsibility is established by filing evidence that the person obtained an automobile or motor vehicle liability policy or bond, and coverage under the policy or bond terminates, the insurer or surety shall inform the department of the date of termination.

(b) The department shall obtain the record of persons convicted of violations of Section 16029 or subdivision (a) of Section 16028 from the courts as provided in Section 1803.

(c) For purposes of this section, a conviction shall be deemed to have occurred if the criteria of Section 13103, 13105, or 40698 are satisfied.

(d) Except as provided in Section 16035 and subdivision (e) of Section 16028, the department shall immediately suspend the driving privileges of any person who fails to file or maintain proof of financial responsibility as required by this section. The suspension shall remain in effect so long as there is a lack of compliance with the requirements of this section.

(e) This section shall remain in effect only until January 1, 1990, and as of that date is repealed unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date.

SEC. 16. Section 16035 is added to the Vehicle Code, to read:

16035. If any person is convicted of a violation of subdivision (a) of Section 16028 or of Section 16029 and the driving of a motor vehicle is necessary to perform the duties of the person's primary employment, the department in lieu of suspending or withholding the person's driving privileges pursuant to Section 16034, shall restrict that person's driving privilege to driving that is required in the person's course of employment. The restriction shall remain in effect so long as suspension or withholding of driving privileges would otherwise be required under Section 16034.

This section shall remain in effect only until January 1, 1990, and as of that date if repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date.

SEC. 17. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 18. This act shall become operative on July 1, 1985.

CHAPTER 1323

An act to amend Sections 39 and 700 of, and to add and repeal Sections 7660 and 7661 of, the Fish and Game Code, relating to fish and game.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 25, 1984.]

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

SECTION 1. Section 39 of the Fish and Game Code is amended to read:

39. "Director" means the Director of Fish and Game.

SEC. 2. Section 700 of the Fish and Game Code is amended to read:

700. There is in the Resources Agency a Department of Fish and Game administered through the director.

SEC. 3. Section 7660 is added to the Fish and Game Code, to read:

7660. The Legislature finds and declares:

(a) That the actions taken by the federal Pacific Fishery Management Council have resulted in significant economic losses to California's salmon and groundfish fisheries; have caused significant waste of fish; and have failed to manage and conserve fisheries for their optimum yield.

(b) That the California Salmon Fishery has been severely affected by regulations imposed by the Pacific Fishery Management Council and the federal Department of Commerce.

(c) That the membership of the Pacific Fishery Management Council has never included a commercial salmon troll fisherman and has at times lacked balance and representation from major fisheries subject to the fishery management plans of the council.

SEC. 4. Section 7661 is added to the Fish and Game Code, to read:

7661. (a) It is the policy of the State of California that the state be represented on the Pacific Fishery Management Council by representatives of those fisheries directly subject to the fishery management plans of the council. Special emphasis shall be made on the nominations and appointments to the Pacific Fishery Management Council for a California commercial salmon troll fisherman. In addition to a commercial salmon troll fisherman, in order to assure a balanced representation on the Pacific Fishery Management Council, nominations shall also include representatives from the seafood processing industry, the commercial passenger carrying fishing industry, the groundfish fishery, and the anchovy fishery.

(b) When the Governor nominates persons for any seat on the Pacific Fishery Management Council, those individuals shall be knowledgeable of California's fishery resources and its fishing industry and needs. Further, the nominations shall be made after consultation with fishery organizations whose members are directly affected by the actions of the Pacific Fishery Management Council.

CHAPTER 1324

An act to amend Sections 16000, 16004, 16070, 16072, and 16075 of, to add Sections 1656.2, 6700.5, and 16028.4 to, and to repeal Sections 16022, 16023, 16070, and 16072 of, the Vehicle Code, relating to uninsured motorists, and making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 25, 1984]

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

SECTION 1. Section 1656.2 is added to the Vehicle Code, to read:

1656.2. The department shall prepare and publish a printed summary describing the penalties for noncompliance with Sections 16000 and 16028, which shall be included with each motor vehicle registration, registration renewal, and transfer of registration and with each driver's license and license renewal. The printed summary may contain wording in 10-point bold type which includes, but is not limited to, the following: "Warning: The Robbins-McAlister Financial Responsibility Act provides that driving a vehicle without

automobile insurance or other acceptable form of financial responsibility can result in severe monetary penalties and fines and suspension of your driver's license."

SEC. 1.5. Section 6700.5 is added to Article 1 (commencing with Section 6700) of Chapter 4 of Division 3 of the Vehicle Code, as added by Senate Bill 850 of the 1983–84 Regular Session of the Legislature, to read:

6700.5. Nothing in Section 6700 supersedes the requirements of Section 6851.

SEC. 2. Section 16000 of the Vehicle Code is amended to read:

16000. The driver of every motor vehicle which is in any manner involved in an accident originating from the operation of a motor vehicle on any street or highway which accident has resulted in damage to the property of any one person in excess of five hundred dollars ($500) or in bodily injury or in the death of any person shall within 10 days after the accident, report the accident on a form approved by the department to the office of the department at Sacramento, subject to the provisions of this chapter. A report shall not be required in the event that the motor vehicle involved in the accident was owned or leased by or under the direction of the United States, this state, or any political subdivision of this state or municipality thereof.

SEC. 3. Section 16004 of the Vehicle Code is amended to read:

16004. (a) The department shall suspend the driving privilege of any person who fails, refuses, or neglects to make a report of an accident as required in this chapter.

(b) A suspension taken under this section shall remain in effect until terminated by receipt of the report of the accident or upon receipt of evidence that financial responsibility as provided in Section 16022 is in effect.

(c) The driving privilege shall not be suspended under this section, and, if a suspension has been imposed and is in effect under this section, that suspension shall be terminated, if the driving privilege is suspended under Section 16370 or 16381 as the result of a judgment arising out of the same accident for which the report of the accident is required by this section. The department may suspend or reimpose the suspension of the driving privilege of a person under this section if the suspension under Section 16370 or 16381 is later set aside for a reason other than that the person has satisfied the judgment in full or to the extent provided in Chapter 2 (commencing with Section 16250) and has given proof of ability to respond in damages as provided in Chapter 3 (commencing with Section 16430).

SEC. 4. Section 16022 of the Vehicle Code is repealed.

SEC. 5. Section 16023 of the Vehicle Code is repealed.

SEC. 6. Section 16028.4 is added to the Vehicle Code, to read:

16028.4. With respect to persons asserting financial responsibility under subdivision (b) of Section 16021, "written evidence," for purposes of subdivision (d) of Section 16028, means a copy of the

insurance policy or bond or an identification card with the insurance policy number, name of insurer, the effective date of coverage, and the date of expiration, or written confirmation from the insurer that the person was insured at the time of the citation.

SEC. 7. Section 16070 of the Vehicle Code, as amended by Section 6 of Chapter 1252 of the Statutes of 1983, is amended to read:

16070. (a) Whenever a driver involved in an accident described in Section 16000 fails to prove the existence of financial responsibility as required by Section 16020 at the time of the accident, the department shall pursuant to subdivision (b) suspend the privilege of the driver or owner to drive a motor vehicle, including the driving privilege of a nonresident in this state.

(b) Whenever the department receives an accident report pursuant to this article which alleges that any of the drivers involved in the accident was not in compliance with Section 16020 at the time of the accident, the department shall immediately mail to that driver a notice of intent to suspend the driver's license of that driver. The department shall suspend the driver's license 15 days after mailing the notice, unless the driver has, prior to that date, established proof of financial responsibility at the time of the accident, as specified in Section 16021, with the department. The suspension notice shall notify the driver of the action taken and the right to a hearing under Section 16075.

SEC. 8. Section 16070 of the Vehicle Code, as added by Section 7 of Chapter 1252 of the Statutes of 1983, is repealed.

SEC. 9. Section 16072 of the Vehicle Code, as amended by Section 8 of Chapter 1252 of the Statutes of 1983, is amended to read:

16072. (a) The suspension of the driving privilege of a person as provided in Section 16070 shall not be terminated until one year has elapsed from the date of actual commencement of the suspension and until the person files proof of financial responsibility, provided that the suspension shall be reinstated if the person fails to maintain such proof of financial responsibility for three years. If such proof is established by the filing of evidence that the person procured an automobile or motor vehicle liability policy or bond, and coverage under such policy or bond terminates, the insurer or surety shall inform the department of the date of termination.

(b) The driving privilege shall not be suspended under Section 16070, and, if a suspension has been imposed and is in effect under Section 16070, that suspension shall be terminated, if the driving privilege is suspended under Section 16370 or 16381 as the result of a judgment arising out of the accident for which proof of financial responsibility was required to be established. The department may suspend or reimpose the suspension of the driving privilege of a person under Section 16070 if the suspension under Section 16370 or 16381 is later set aside for a reason other than that the person has satisfied the judgment in full or to the extent provided in Chapter 2 (commencing with Section 16250) and has given proof of ability to respond in damages as provided in Chapter 3 (commencing with

Section 16430).

SEC. 10. Section 16072 of the Vehicle Code, as added by Section 9 of Chapter 1252 of the Statutes of 1983, is repealed.

SEC. 11. Section 16075 of the Vehicle Code is amended to read:

16075. (a) The suspension provisions of this article shall not apply to a driver or owner until 15 days after the department sends to the driver or owner notice of its intent to suspend his driving privilege and advises the driver or owner of his right to a hearing as hereinafter provided.

(b) The department shall conduct the hearing upon demand of the driver or owner, within 30 days of such demand, to determine the applicability of this chapter to such driver or owner, including a determination of whether:

(1) The accident has resulted in property damage in excess of five hundred dollars ($500), or bodily injury, or death.

(2) The driver or owner has established financial responsibility, as provided in Article 3 (commencing with Section 16050), was in effect at the time of the accident.

(c) The demand for the hearing shall be in writing. The application for hearing made by the affected person within 10 days of receiving notice of the department's action shall operate to stay the suspension by the department from the date of the demand until the hearing is completed and a decision has been made.

(d) The hearing provided for by this section shall be held in the county of residence of the person requesting the hearing. Such hearing shall be conducted pursuant to Article 3 (commencing with Section 14100) of Chapter 3 of Division 6.

(e) The department shall render its decision within 15 days after conclusion of the hearing.

SEC. 12. The Department of Motor Vehicles shall conduct a study of all of the following:

(a) The feasibility and cost to the department of cross-matching names of vehicle registrants with the names of holders of driver's licenses.

(b) The feasibility and cost of intergrating this procedure with the department's procedures for renewal of driver's licenses and vehicle registrations by mail.

(c) The estimated impact on the volume of uninsured motorists that would result if the department was required to refuse to renew the registration of all vehicles registered to holders of driver's licenses when those persons are not financially responsible, as proposed by Senate Bill 850 and Assembly Bill 1155 of the 1983–84 Regular Session of the Legislature.

(d) Issues of invasion of privacy and confidentiality that may arise from a cross-matching program.

The department shall consult with the Chairmen of the Assembly Committee on Finance and Insurance and the Senate Committee on Insurance, Claims and Corporations in the design and implementation of the study.

The department shall submit a report of the study, together with its recommendations, to the Legislature on or before January 1, 1986.

SEC. 13. Sections 2, 3, 7, 9, and 11 of this act shall become operative on July 1, 1985.

SEC. 14. Section 6700.5 of the Vehicle Code, as added by Section 1.5 of this act shall become operative only if Senate Bill 850 of the 1983–84 Regular Session of the Legislature is also enacted and this act is enacted after Senate Bill 850.

SEC. 15. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 16. The sum of four hundred forty-four thousand fifteen dollars ($444,015) is hereby appropriated to the Department of Motor Vehicles from the Motor Vehicle Account in the State Transportation Fund for use during the 1984–85 fiscal year for allocation for the following purposes:

(a) To automate the Financial Responsibility Section and to implement the provisions of Senate Bill 850 of the 1983–84 Regular Session of the Legislature	$ 335,080
(b) To reimburse the department for the costs incurred in the 1984–85 fiscal year in conducting the study required by Section 12	56,210
(c) To implement the provisions of Section 1656.2	52,725

It is the intent of the Legislature to provide for immediate automation of the Financial Responsibility Section of the Department of Motor Vehicles in order that the section may enforce the provisions of this act and Senate Bill 850 of the 1983–84 Regular Session of the Legislature to reduce the number of uninsured motorists on the highways.

SEC. 17. It is the intent of the Legislature in enacting the provisions of this act that the revenue received pursuant to Senate Bill 850 of the 1983–84 Regular Session of the Legislature shall be utilized to fund the provisions of this act.

CHAPTER 1325

An act to amend Sections 16111, 16111.5, and 16112 of the Government Code, and to amend Sections 75.70 and 2229 of the Revenue and Taxation Code, relating to public finance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 25, 1984.]

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

SECTION 1. Section 16111 of the Government Code, as added by Chapter 447 of the Statutes of 1984, is amended to read:

16111. (a) Out of the amount appropriated to the Controller from the General Fund, the Controller shall allocate to each city, multicounty special district, and redevelopment agency an amount in accordance with the terms and conditions set forth in this section.

(b) For each city the Controller shall determine the amount of personal property tax subvention payments which would have been received by the city in the 1983–84 fiscal year, but for the operation of Section 100.7 of the Revenue and Taxation Code.

(1) For the 1984–85 fiscal year, the Controller shall allocate to each city an amount which is 50 percent of the amount determined pursuant to this subdivision.

(2) For the 1985–86 fiscal year, the Controller shall allocate to each city an amount which is 40 percent of the amount determined pursuant to this subdivision.

(3) For the 1986–87 fiscal year, the Controller shall allocate to each city an amount which is 30 percent of the amount determined pursuant to this subdivision.

(4) For the 1987–88 fiscal year, the Controller shall allocate to each city an amount which is 20 percent of the amount determined pursuant to this subdivision.

(5) For the 1988–89 fiscal year, the Controller shall allocate to each city an amount which is 10 percent of the amount determined pursuant to this subdivision.

(6) For the 1989–90 fiscal year, and each fiscal year thereafter, the Controller shall not allocate any funds to a city pursuant to this subdivision.

(c) Upon, and only upon, application by a multicounty special district or redevelopment agency, the Controller shall determine the loss occasioned by the repeal of the former personal property tax subvention program, as follows:

(1) The Controller shall determine the amount of personal property tax subventions which would have been received by the district or redevelopment agency in the 1983–84 fiscal year, but for the operation of Section 100.7 of the Revenue and Taxation Code.

(2) The Controller shall determine the amount of revenue received by the district or redevelopment agency pursuant to Section 75.70 of the Revenue and Taxation Code for the current fiscal year.

(3) If the amount determined pursuant to paragraph (2) is less than the amount determined pursuant to paragraph (1), then the Controller shall allocate to the district or redevelopment agency an amount equal to the difference between the amounts determined

pursuant to paragraphs (1) and (2).

(4) The Controller shall make no allocation to a district for that fiscal year in which the amount determined pursuant to paragraph (2) is greater than or equal to the amount determined pursuant to paragraph (1).

(5) The Controller shall make no allocation to a redevelopment agency for that fiscal year in which the amount determined pursuant to paragraph (2) is greater than or equal to the amount determined pursuant to paragraph (1) or for any fiscal year thereafter, except as provided in this paragraph. In any fiscal year after a fiscal year in which the amount determined pursuant to paragraph (2) is greater than or equal to the amount determined pursuant to paragraph (1), the Controller shall allocate to the redevelopment agency the amount determined pursuant to paragraph (3) less any amount by which the amount determined pursuant to paragraph (2) is greater than the amount determined pursuant to paragraph (1) in any previous fiscal year.

SEC. 2. Section 16111.5 of the Government Code, as added by Chapter 447 of the Statutes of 1984, is amended to read:

16111.5. (a) From the amount appropriated specifically for the purposes of this section, for the 1984–85 fiscal year only, the Controller shall allocate to each nonenterprise special district an amount in accordance with the terms and conditions set forth in this section.

(b) Upon, and only upon, application by a nonenterprise special district, the Controller shall determine the loss occasioned by the repeal of the former personal property tax subvention program, as follows:

(1) The Controller shall determine the amount of personal property tax subventions which would have been received by the nonenterprise special district in the 1983–84 fiscal year, but for the operation of Section 100.7 of the Revenue and Taxation Code.

(2) The Controller shall determine the amount of revenue received by the nonenterprise special district pursuant to Section 75.70 of the Revenue and Taxation Code for the 1984–85 fiscal year.

(3) If the amount determined pursuant to paragraph (2) is less than the amount determined pursuant to paragraph (1), then the Controller shall allocate to the nonenterprise special district an amount equal to the difference between the amounts determined pursuant to paragraphs (1) and (2).

(4) The Controller shall make no allocation to a nonenterprise special district if the amount determined pursuant to paragraph (2) is greater than or equal to the amount determined pursuant to paragraph (1).

(c) If the amount appropriated specifically for the purpose of this section is not sufficient to pay all the claims made pursuant to this section, the Controller shall reduce the allocations on a pro rata basis.

(d) As used in this section, "nonenterprise special district" means a special district which is not engaged in an enterprise activity, as

reported in the most recent Controller's Annual Report on Financial Transactions of Special Districts. "Nonenterprise special district" may include the nonenterprise activities of a special district which is also engaged in enterprise activities. "Nonenterprise special district" does not include a multicounty special district as defined pursuant to Section 16113.

SEC. 3. Section 16112 of the Government Code, as added by Chapter 447 of the Statutes of 1984, is amended to read:

16112. (a) Applications to the Controller pursuant to this chapter shall be made in the time, format, and manner prescribed by the Controller. Any rules or regulations adopted pursuant to this subdivision shall not be subject to review and approval by the Office of Administrative Law pursuant to the provisions of the Administrative Procedure Act provided for in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3.

(b) The Controller shall make payments to each nonenterprise special district, multicounty special district, or redevelopment agency in three installments each year. The Controller shall make one payment on or before October 31, the second payment on or before February 28, and the third payment on or before June 30. The Controller shall make these payments based on claims which are based on revenues actually received. The Controller shall pay to each city on or before November 15 of each year the amount determined pursuant to subdivision (b) of Section 16111.

(c) All officers and employees of any county, city, special district, or redevelopment agency and any state agency, board, or commission shall furnish the Controller with any records or information in their possession which may be necessary to assist the Controller in carrying out the purposes and requirements of this chapter.

SEC. 4. Section 75.70 of the Revenue and Taxation Code, as amended by Chapter 447 of the Statutes of 1984, is amended to read:

75.70. (a) Notwithstanding any other provision of law, for the 1983–84 fiscal year, each county auditor shall allocate to all elementary, high school, and unified school districts within the county in proportion to each district's average daily attendance, as certified by the Superintendent of Public Instruction for purposes of the advance apportionment of state aid in the then current fiscal year, without respect to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5, and without respect to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, an amount equal to the additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments for the current roll under this chapter. Additional revenues generated by a rate or rates levied in excess of the limitation prescribed by subdivision (a) of Section 1 of Article XIII A of the California Constitution shall be allocated to the fund for which the tax rate or

rates were levied.

These allocations shall be made on a timely basis but no later than 10 working days after the close of the preceding monthly or four-weekly accounting period.

(b) For the 1984–85 fiscal year, the county auditor shall, without respect to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5, do all of the following:

(1) Make the allocation and payment of funds as provided in Section 33670 of the Health and Safety Code.

(2) Allocate to the county the amount determined pursuant to Section 75.60.

(3) Allocate to the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraphs (1) and (2), the remainder multiplied by the county's property tax apportionment factor determined pursuant to Section 97.5.

(4) Allocate to each community college district and county superintendent of schools within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraphs (1) and (2), the remainder multiplied by each county superintendent of schools' and community college district's property tax apportionment factor determined pursuant to Section 97.5.

(5) Allocate to each city within the county an amount equal to the total amount of additional revenue generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraphs (1) and (2), the remainder multiplied by each city's property tax apportionment factor determined pursuant to Section 97.5.

(6) Allocate to each special district within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraphs (1) and (2), the remainder multiplied by each special district's property tax apportionment factor determined pursuant to Section 97.5. The amount allocated to each special district which is governed by the board of supervisors of a county or whose governing board is the same as the board of supervisors of a county, shall be subject to Section 98.6.

(7) Allocate the remaining revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under

this chapter to all elementary, high school, and unified school districts within the county in proportion to each district's average daily attendance, as certified by the Superintendent of Public Instruction for purposes of the advance apportionment of state aid in the then current fiscal year.

(8) Allocate additional revenues generated by a rate levied in excess of the limitation prescribed by subdivision (a) of Section 1 of Article XIII A of the California Constitution to the fund or funds for which the tax rate or rates were levied.

These allocations shall be made on a timely basis but no later than 10 working days after the close of the preceding monthly or four-weekly accounting period.

(c) For the 1985–86 fiscal year, and each fiscal year thereafter, the county auditor shall, without respect to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5, do all of the following:

(1) Make the allocation and payment of funds as provided in Section 33670 of the Health and Safety Code.

(2) Allocate to the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraph (1), the remainder multiplied by the county's property tax apportionment factor determined pursuant to Section 97.5.

(3) Allocate to each county superintendent of schools and community college district within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraph (1), the remainder multiplied by each county superintendent of schools' and community college district's property tax apportionment factor determined pursuant to Section 97.5.

(4) Allocate to each city within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraph (1), the remainder multiplied by each city's property tax apportionment factor determined pursuant to Section 97.5.

(5) Allocate to each special district within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraph (1), the remainder multiplied by each special district's property tax apportionment factor determined pursuant to Section 97.5. The amount allocated to each special district which is governed

by the board of supervisors of a county or whose governing body is the same as the board of supervisors of a county, shall be subject to Section 98.6.

(6) Allocate the remaining revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter to all elementary, high school, and unified school districts within the county in proportion to each district's average daily attendance, as certified by the Superintendent of Public Instruction for the purposes of the advance apportionment of state aid in the then current fiscal year.

(7) Allocate additional revenues generated by a rate levied in excess of the limitation prescribed by subdivision (a) of Section 1 of Article XIII A of the California Constitution to the fund or funds for which the tax rate or rates were levied.

These allocations shall be made on a timely basis but no later than 10 working days after the close of the monthly or four-weekly preceding accounting period.

(d) For purposes of the certification made by the Superintendent of Public Instruction pursuant to subdivision (a), the average daily attendance of the following districts shall be deemed to be zero:

(1) In the case of multicounty districts, the portions of the districts located other than in the county of control.

(2) Any district which received two thousand four hundred dollars ($2,400) or one hundred twenty dollars ($120) per average daily attendance, whichever is greater, in the prior fiscal year.

(e) The Superintendent of Public Instruction shall certify the appropriate counts of average daily attendance pursuant to subdivision (a) to each county auditor no later than July 15 of each applicable fiscal year.

(f) On or before April 15, the auditor of each county shall furnish to the Superintendent of Public Instruction the estimated amount of tax receipts pursuant to this section of each school district situated within his or her county.

(g) In the event property tax revenues under this chapter are generated by a change in ownership or completed new construction which occurred on or before May 31, 1984, but are collected subsequent to the 1983–84 fiscal year, the revenues for the current roll shall be allocated to school districts as if they had been collected and allocated during this 1983–84 fiscal year. Any of the aforementioned revenues which are collected in the 1984–85 fiscal year shall be applied to school apportionments for the 1984–85 fiscal year.

SEC. 5. Section 2229 of the Revenue and Taxation Code is amended to read:

2229. No classification or exemption of property for purposes of ad valorem property taxation enacted by the Legislature after January 1, 1973, shall extend for more than five years or shall exempt more than 75 percent of the value thereof from such taxation.

Any such classification or exemption enacted by the Legislature after January 1, 1973, shall be reimbursed by the state for the 1973–1974 fiscal year and for each fiscal year thereafter.

For purposes of this section the actual loss of revenue does not include potential revenue from property of a type which was not being assessed and taxed on January 1, 1973.

Upon appropriation of reimbursement funds by the Legislature, each county auditor shall file a claim with the Controller on or before September 30 for reimbursement of the tax loss attributable to the exemption. The Controller shall pay on or before December 30 of each year one-half of the amount claimed and shall pay the other one-half on or before April 30. The Controller may audit, or may request the State Board of Equalization to audit, any of these claims or payments. This paragraph shall not apply to classes of property affected by Sections 219, 988, 991, 992, 1152, 5303, 5523, and subdivision (c) of Section 227 of the Revenue and Taxation Code.

The Legislative Analyst shall review any classification or exemption of property to which this section is applicable and shall report to the Legislature on the general economic effects thereof. Such report shall be submitted at least one year prior to the date on which the classification or exemption is scheduled to terminate.

Any claim alleging that the reimbursement requirements of this section have not been complied with shall be presented directly to the Legislature and the provisions of Sections 905.2 and 945.4 of the Government Code shall not apply thereto.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that this act, which would make statutory changes necessary to provide for local government financing during the 1984–85 fiscal year, may take effect as early within that fiscal year as possible, it is necessary that this act take effect immediately.

CHAPTER 1326

An act to amend Section 439 of, to add and repeal Part 1.8 (commencing with Section 443) of Division 1 of, and to repeal Sections 437, 437.1, 437.2, 437.3, and 437.4 of, the Health and Safety Code, and to repeal Section 14125 of the Welfare and Institutions Code, relating to health care.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 25, 1984.]

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

SECTION 1. Section 437 of the Health and Safety Code is repealed.

SEC. 2. Section 437.1 of the Health and Safety Code is repealed.

SEC. 3. Section 437.2 of the Health and Safety Code is repealed.

SEC. 4. Section 437.3 of the Health and Safety Code is repealed.

SEC. 5. Section 437.4 of the Health and Safety Code is repealed.

SEC. 6. Section 439 of the Health and Safety Code is amended to read:

439. (a) Every health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 shall be charged a fee of not more than 0.035 percent of the health facility's gross operating cost for the provision of health care services for its last fiscal year ending prior to the effective date of this section. Thereafter, the office shall set for, and charge to, and collect from all health facilities a special fee, which shall be due on July 1, and delinquent on July 31 of each year beginning with the year 1977, of not more than 0.035 percent of the health facility's gross operating cost for provision of health care services for its last fiscal year which ended on or before June 30 of the preceding calendar year. Each year the office shall establish the fee to produce revenues equal to the appropriation to pay for the functions required to be performed pursuant to this part or Part 1.8 (commencing with Section 443) by the office, the area and local health planning agencies, and the Advisory Health Council.

Health facilities which pay fees shall not be required to pay, directly or indirectly, the share of the costs of those health facilities for which fees are waived.

(b) Any amounts raised by the collection of the special fees provided for by subdivision (a) of this section which are not required to meet appropriations in the Budget Act for the current fiscal year shall remain in the General Fund and shall be available to the office and the council in succeeding years, when appropriated by the Legislature, for expenditure under the provisions of this part and Part 1.8 (commencing with Section 443) and shall reduce the amount of such special fees which the office is authorized to establish and charge.

(c) No health facility liable for the payment of fees required by this section shall be issued a license or have an existing license renewed unless such fees are paid. New, previously unlicensed health facilities shall be charged a pro rata fee to be established by the office during the first year of operation.

The license of any health facility, against which the fees required by this section are charged, shall be revoked, after notice and hearing, if it is determined by the office that the fees required were not paid within the time prescribed by subdivision (a).

SEC. 7. Part 1.8 (commencing with Section 443) is added to Division 1 of the Health and Safety Code, to read:

PART 1.8. HEALTH DATA AND ADVISORY COUNCIL CONSOLIDATION

443. This part shall be known as the Health Data and Advisory Council Consolidation Act.

443.10. The Legislature hereby finds and declares that:

(a) Significant changes have taken place in recent years in the health care marketplace and in the manner in which health facilities are reimbursed by government and private third party payors for the services they provide.

(b) These changes have permitted the state to reevaluate the need for, and manner in which data are collected from health facilities by the various state agencies and commissions.

(c) It is the intent of the Legislature that as a result of this reevaluation that the data collection function be consolidated in a single state agency. It is the further intent of the Legislature that the single state agency only collect that data from health facilities which are essential. The data should be collected, to the extent practical on consolidated, multipurpose report forms for use by all state agencies.

(d) It is the further intent of the Legislature to eliminate the California Health Facilities Commission and the State Advisory Health Council, and to create a single advisory commission to assume consolidated data collection and planning functions.

(e) It is the Legislature's further intent that the review of the data that the state collects be an ongoing function. The office, with the advice of the advisory commission, shall annually review this data for need and shall revise, add, or delete items as necessary. The commission and the office shall consult with affected state agencies and the affected industry when adding or eliminating data items. However, the office shall neither add nor delete data items to the Hospital Discharge Abstract Data Record or the quarterly reports without prior authorizing legislation, unless specifically required by federal law or judicial decision.

(f) The Legislature recognizes that the authority for the California Health Facilities Commission is scheduled to expire January 1, 1986. It is the intent of the Legislature, by the enactment of this part, to continue the uniform system of accounting and reporting established by the commission and required for use by health facilities. It is also the intent of the Legislature to continue a more limited, cost-disclosure program.

443.20. There is hereby created the California Health Policy and Data Advisory Commission to be composed of 11 members.

The Governor shall appoint seven members, one of whom shall be a hospital chief executive officer, one of whom shall be a long-term care facility chief executive officer, one of whom shall be a representative of the health insurance industry involved in establishing premiums or underwriting, one of whom shall be a representative of a group prepayment health care service plan, one of whom shall be a representative of a business coalition concerned

with health, and two of whom shall be general members. The Speaker of the Assembly shall appoint two members, one of whom shall be a physician and surgeon and one of whom shall be a general member. The Senate Rules Committee shall appoint two members, one of whom shall be a representative of a labor coalition concerned with health, and one of whom shall be a general member.

The chairperson shall be designated by the Governor. The Governor shall designate four original appointments which will be for four-year terms. The Governor shall designate three original appointments which shall be for two-year terms. The Speaker of the Assembly shall designate one original appointment which will be for two years and one original appointment which will be for four years. The Senate Rules Committee shall designate one original appointment which will be for two years and one original appointment which will be four years. Thereafter, all appointments shall be for four-year terms.

In addition to the 11 original appointees to the commission, the chairperson of the Advisory Health Council on December 31, 1985, and the chairperson of the California Health Facilities Commission on December 31, 1985, shall also serve four-year terms. During their terms when the commission shall have 13 members, they shall be full voting representatives.

443.21. (a) As used in this part, "office" means the Office of Statewide Health Planning and Development.

(b) As used in this part, "commission" means the California Health Policy and Data Advisory Commission.

443.22. On and after January 1, 1986, any reference in this part or Part 1.5 (commencing with Section 437) to the Advisory Health Council shall be deemed a reference to the California Health Policy and Data Advisory Commission.

443.23. The California Health Policy and Data Advisory Commission shall meet at least once every two months, or more often if necessary to fulfill its duties.

443.24. The members of the commission shall receive per diem of one hundred dollars ($100) for each day actually spent in the discharge of official duties and shall be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of the commission.

443.25. The commission may appoint an executive secretary subject to approval by the Secretary of Health and Welfare. The office shall provide such other staff to the commission as the office and the commission deem necessary.

443.26. The functions and duties of the commission shall include the following:

(a) Advise the office on the implementation of the new, consolidated data system.

(b) Advise the office regarding the ongoing need to collect and report health facility data.

(c) Annually develop a report to the director of the office

regarding changes that should be made to existing data collection systems and forms. Copies of the report shall be provided to the Senate Health and Human Services Committee and to the Assembly Health Committee.

(d) Advise the office regarding changes to the uniform accounting and reporting systems for health facilities.

(e) Conduct public meetings for the purposes of obtaining input from health facilities, data users, and the general public regarding this part and Part 1.5 (commencing with Section 437).

(f) Advise the Secretary of Health and Welfare on the formulation of general policies which shall advance the purposes of this part.

(g) Advise the office on the adoption, amendment, or repeal of regulations it proposes prior to their submittal to the Office of Administrative Law.

(h) Advise the office on the format of individual health facility reports and on any technical and procedural issues necessary to implement this part.

(i) Advise the office on the formulation of general policies which shall advance the purposes of Part 1.5 (commencing with Section 437).

As the office and the commission deem necessary, the commission may establish committees and appoint persons who are not members of the commission to these committees as are necessary to carry out the purposes of the commission. Representatives of area health planning agencies shall be invited, as appropriate, to serve on committees established by the office and the commission relative to the duties and responsibilities of area health planning agencies. Members of the standing committees shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of these committees.

Whenever the office or the commission does not accept the advice of the other body on proposed regulations or on major policy issues, the office or the commission shall provide a written response on its action to the other body within 30 days, if so requested.

The commission or the office director may appeal to the Secretary of Health and Welfare over disagreements on policy, procedural, or technical issues.

443.30. (a) Effective January 1, 1986, the Office of Statewide Health Planning and Development shall be the single state agency designated to collect the following health facility or clinic data for use by all state agencies:

(1) That data required by the office pursuant to Section 439.2.

(2) That data required in the Medi-Cal cost reports pursuant to Section 14170 of the Welfare and Institutions Code.

(3) Those data items formerly required by the California Health Facilities Commission that are listed in Sections 443.31 and 443.32.

(b) The office shall consolidate any and all of the reports listed under this section or Sections 443.31 and 443.32, to the extent feasible,

to minimize the reporting burdens on hospitals. Provided, however, that the office shall neither add nor delete data items from the Hospital Discharge Abstract Data Record or the quarterly reports without prior authorizing legislation, unless specifically required by federal law or regulation or judicial decision.

443.31. Every organization which operates, conducts, or maintains a health facility and the officers thereof, shall make and file with the office, at such times as the office shall require, all of the following reports on forms specified by the office which shall be in accord where applicable with the systems of accounting and uniform reporting required by this part:

(a) A balance sheet detailing the assets, liabilities, and net worth of the health facility at the end of its fiscal year.

(b) A statement of income, expenses, and operating surplus or deficit for the annual fiscal period, and a statement of ancillary utilization and patient census.

(c) A statement detailing patient revenue by payor and revenue center.

(d) A statement detailing changes in financial position and capital financing status, including, but not limited to, ongoing and new capital expenditures and depreciation.

(e) A statement reporting the information required in subdivisions (a) and (b) for each separately licensed health facility operated, conducted, or maintained by the reporting organization.

(f) The office shall consult with the County Hospital Committee of the California Hospital Association, the County Supervisors Association of California, and the California Association of Public Hospitals to improve the accuracy of indigent care revenue reporting and shall present legislative or regulatory recommendations for such improvements by March 30, 1985.

(g) A Hospital Discharge Abstract Data Record which includes all of the following:

(1) Date of birth.
(2) Sex.
(3) Race.
(4) Zip code.
(5) Admission date.
(6) Source of admission.
(7) Type of admission.
(8) Discharge date.
(9) Principal diagnosis.
(10) Other diagnoses.
(11) Principal procedure and date.
(12) Other procedures and dates.
(13) Total charges.
(14) Disposition of patient.
(15) Expected source of payment.

It is the expressed intent of the Legislature that the patient's rights of confidentiality shall not be violated in any manner.

A hospital or its designee shall annually file the Hospital Discharge Abstract Data Record not later than six months after the end of the calendar year. A hospital may submit the Hospital Discharge Abstract Data Record in a computer tape format, and a hospital shall use coding from the International Classification of Diseases in reporting diagnoses and procedures.

443.32. Continuing with the first calendar quarter of 1986, summary financial and utilization data previously reported to the Health Facilities Commission pursuant to Section 441.185 shall be reported to the office by each hospital within 45 days of the end of every calendar quarter. Adjusted reports reflecting changes as a result of audited financial statements may be filed within four months of the close of the hospital's fiscal or calendar year. The quarterly summary financial and utilization data shall conform to the uniform description of accounts as contained in the Accounting and Reporting Manual for California Hospitals and shall include all of the following:

(a) Number of licensed beds.

(b) Average number of available beds.

(c) Average number of staffed beds.

(d) Number of discharges.

(e) Number of inpatient days.

(f) Number of outpatient visits.

(g) Total operating expenses.

(h) Total inpatient gross revenues.

(i) Total outpatient gross revenues.

(j) Total deductions from revenue, including bad debts, charity care, and Medicare and Medi-Cal contractual allowances.

(k) Total capital expenditures.

(*l*) Total net fixed assets.

(m) Total number of inpatient days, outpatient visits, and discharges by payor source, including Medi-Cal, Medicare, and other sources.

(n) Total net inpatient revenues and net outpatient revenues by payor source such as government payors, and all other payors.

Hospitals reporting pursuant to subdivision (d) of Section 443.34 may provide the items in subdivisions (g), (h), (i), and (j) of this section on a group basis, as described in subdivision (d) of Section 443.34.

The office shall make available at cost, to all interested parties, a hard copy of any hospital report made pursuant to this section and in addition to hard copies, shall make available at cost, a computer tape of all reports made pursuant to this section within 105 days of the end of every calendar quarter.

443.33. (a) The reports required by subdivisions (a), (b), and (c) of Section 443.31 shall be filed with the office within four months after the close of the filing organization's fiscal year and shall be available from the office no later than three months after the date upon which the report was filed.

(b) The reports required by subdivision (d) of Section 443.31 shall be filed annually by each hospital or its designee not later than six months after the end of the calendar year, and shall be available from the office no later than six months after the date upon which the report was filed.

(c) The reports referred to in paragraph (2) of subdivision (a) of Section 443.30 shall be filed with the office on the dates required by applicable law and shall be available from the office no later than six months after the date upon which the report was filed.

(d) The office shall make available at cost, to all interested parties, a hard copy of any hospital report referred to in subdivision (a), (b), or (c) of this section and in addition to hard copies, shall make available at cost, computer tapes of the hospital reports referred to in subdivision (a), (b), or (c), unless the office determines that an individual patient's rights of confidentiality would be violated. In addition, the office shall provide at no cost, one copy of each individual health facility report or a computer tape thereof to each area health planning agency.

443.34. (a) On and after January 1, 1986, those systems of health facility accounting and auditing formerly approved by the California Health Facilities Commission shall remain in full force and effect for use by health facilities but shall be maintained by the office with the advice of the California Health Policy and Data Advisory Commission.

(b) The office, with the advice of the commission, shall allow and provide, in accordance with appropriate regulations, for modifications in the accounting and reporting systems for use by health facilities in meeting the requirements of this part if the modifications are necessary to do any of the following:

(1) To correctly reflect differences in size of, provision of, or payment for, services rendered by health facilities.

(2) To correctly reflect differences in scope, type, or method of provision of, or payment for, services rendered by health facilities.

(3) To avoid unduly burdensome costs for those health facilities in meeting the requirements of differences pursuant to paragraphs (1) and (2).

(c) Modifications to discharge data reporting requirements. The office, with the advice of the commission, shall allow and provide, in accordance with appropriate regulations, for modifications to discharge data reporting format and frequency requirements if these modifications will not impair the office's ability to process the data or interfere with the purposes of this part. This modification authority shall not be construed to permit the office to administratively require the reporting of discharge data items not specified in Section 443.31.

(d) Reporting provisions for health facilities. The office, with the advice of the commission, shall establish specific reporting provisions for health facilities that receive a preponderance of their revenue from associated comprehensive group-practice prepayment health

care service plans. These health facilities shall be authorized to utilize established accounting systems, and to report costs and revenues in a manner which is consistent with the operating principles of such plans and with generally accepted accounting principles. When these health facilities are operated as units of a coordinated group of health facilities under common management, they shall be authorized to report as a group rather than as individual institutions. As a group, they shall submit a consolidated income and expense statement. However, cost data shall be reported for each individual institution.

The office, with the advice of the commission, shall adopt comparable modifications to the financial reporting requirements of this part for county hospital systems consistent with the purposes of this part.

443.35. (a) The office, with the advice of the commission, shall maintain a file of all the reports filed under this part at its Sacramento office. Subject to such rules as the office, with the advice of the commission, may prescribe, these reports shall be produced and made available for inspection upon the demand of any person, with the exception of hospital discharge abstract data which shall be available for public inspection unless the office determines that an individual patient's rights of confidentiality would be violated.

(b) Copies certified by the office as being true and correct copies of reports properly filed with the office pursuant to this part, together with summaries, compilations, or supplementary reports prepared by the office, shall be introduced as evidence, where relevant, at any hearing, investigation, or other proceeding held, made, or taken by any state, county, or local governmental agency, board, or commission which participates as a purchaser of health facility services pursuant to the provisions of a publicly financed state or federal health care program. Each of these state, county, or local governmental agencies, boards, and commissions shall weigh and consider the reports made available to it pursuant to the provisions of this subdivision in its formulation and implementation of policies, regulations, or procedures regarding reimbursement methods and rates in the administration of these publicly financed programs.

(c) The office, with the advice of the commission, shall compile and publish summaries of the data for the purpose of public disclosure. The commission shall approve the policies and procedures relative to the manner in which data is disclosed to the public. The summaries shall be limited to aggregate summaries no smaller than health facility planning areas. The summaries shall identify and allow for meaningful comparison of individual health facility planning areas as well as statewide data, and shall permit comparisons to be made between the summaries covering a particular period and individual health facility reports made available pursuant to subdivision (d) of Section 443.33. In those health facility planning areas where there is only one health facility, data shall be reported in aggregates larger than one health facility

planning area. The office shall attempt to aggregate the data in a manner that does not allow the identification of an individual health facility. The office, with the advice of the commission, may initiate and conduct studies as it determines will advance the purposes of this part.

(d) In order to assure that accurate and timely data are available to the public in useful formats, the office shall establish a public liaison function. The public liaison shall provide technical assistance to the general public on the uses and applications of individual and aggregate health facility data and shall provide the director and the commission with an annual report on changes that can be made to improve the public's access to data.

443.36. (a) Any health facility which does not file any report as required by this part with the office is liable for a civil penalty of one hundred dollars ($100) a day for each day the filing of any report is delayed. No penalty shall be imposed if an extension is granted in accordance with the guidelines and procedures established by the office, with the advice of the commission.

(b) Any health facility which does not use an approved system of accounting pursuant to the provisions of this part for purposes of submitting financial and statistical reports as required by this part shall be liable for a civil penalty of not more than five thousand dollars ($5,000).

(c) Civil penalties are to be assessed and recovered in a civil action brought in the name of the people of the State of California by the office. Assessment of a civil penalty may, at the request of any health facility, be reviewed on appeal, and the penalty may be reduced or waived for good cause.

(d) Any money which is received by the office pursuant to this section shall be paid into the General Fund.

443.37. Any health facility affected by any determination made under this part by the office may petition the office for review of the decision. This petition shall be filed with the office within 15 business days, or within such greater time as the office, with the advice of the commission, may allow, and shall specifically describe the matters which are disputed by the petitioner.

A hearing shall be commenced within 60 calendar days of the date on which the petition was filed. The hearing shall be held before an employee of the office, or a hearing officer employed by the Office of Administrative Hearings. If held before an employee of the Office of Administrative Hearings, the hearing shall be held in accordance with such procedures as the Office of Administrative Hearings, with the advice of the commission, shall prescribe. If held before a hearing officer employed by the Office of Administrative Hearings, the hearing shall be held in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Division 3 of the Government Code. The hearing officer shall prepare a recommended decision including findings of fact and conclusions of law and present it to the office for its adoption. The decision of the Office of Administrative

Hearings shall be in writing and shall be final. The decision of the office shall be made within 60 calendar days after the conclusion of the hearing and shall be effective upon filing and service upon the petitioner.

Judicial review of any final action, determination, or decision may be had by any party to the proceedings as provided in Section 1094.5 of the Code of Civil Procedure. The decision of the Office of Administrative Hearings shall be upheld against a claim that its findings are not supported by the evidence unless the court determines that the findings are not supported by substantial evidence.

The Office of Administrative Hearings, or hearing officer designated to conduct a hearing pursuant to this section shall be permitted to issue subpoenas and subpoenas duces tecum in a manner and subject to the conditions established by Section 11510 of the Government Code.

443.38. Notwithstanding any other provision of law, the disclosure aspects of this part shall be deemed complete with respect to district hospitals, and no district hospital shall be required to report or disclose any additional financial or utilization data to any person or other entity except as is required by this part.

443.40. On January 1, 1986, all regulations previously adopted by the California Health Facilities Commission which relate to functions vested in the Office of Statewide Health Planning and Development and which are in effect on that date, shall remain in effect and shall be fully enforceable to the extent that they are consistent with this part, as determined by the office, unless and until readopted, amended, or repealed by the Office of Statewide Health Planning and Development following review and comment by the commission.

443.41. Pursuant to Section 16304.9 of the Government Code, the Controller shall transfer to the office the unexpended balance of funds as of January 1, 1986, in the California Health Facilities Commission Fund, available for use in connection with the performance of the functions of the California Health Facilities Commission to which it has succeeded pursuant to this part.

443.42. All officers and employees of the California Health Facilities Commission who, on December 31, 1985, are serving the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the Office of Statewide Health Planning and Development by this part shall be transferred to the Office of Statewide Health Planning and Development. The status, positions, and rights of such persons shall not be affected by the transfer and shall be retained by them as officers and employees of the Office of Statewide Health Planning and Development, pursuant to the State Civil Service Act except as to positions exempted from civil service.

443.43. The Office of Statewide Health Planning and Development shall have possession and control of all records, papers,

offices, equipment, supplies, moneys, funds, approprations, land, or other property, real or personal, held for the benefit or use of the California Health Facilities Commission for the performance of functions transferred to the Office of Statewide Health Planning and Development by this part.

443.44. The Office of Statewide Health Planning and Development may enter into such agreements and contracts with any person, department, agency, corporation, or legal entity as are necessary to carry out the functions vested in the office by this part or any other law.

443.45. The office shall administer this part and shall make all rules and regulations necessary to implement the provisions and achieve the purposes stated herein. The commission shall advise and consult with the office in carrying out the administration of this part.

443.46. This part shall remain in effect only until January 1, 1990, and as of that date is repealed unless a later enacted statute chaptered prior to that date extends or deletes that date.

SEC. 8. Section 14125 of the Welfare and Institutions Code is repealed.

SEC. 9. It is the intent of the Legislature that the California Health Facilities Commission and the Office of Statewide Health Planning and Development shall cooperate to assure the orderly transition of functions under this act. As soon after January 1, 1985, as is practical, the office and the commission shall develop and begin implementing a transition plan to assure an orderly transition.

SEC. 10. Sections 1 to 5, inclusive, of this act shall become operative January 1, 1986.

SEC. 11. The Office of Statewide Health Planning and Development shall report to the Legislature by January 1, 1985, on the consolidated report form to be used by health facilities pursuant to this act. The office shall further report by April 1, 1985, on the issue of revised disclosure reporting, and shall further provide a work plan or program detailing the management steps to be taken to implement this act.

Prior to June 1, 1985, the Auditor General shall complete a study, using expert consultants on hospital accounting and disclosure to advise the Legislature whether the system of reporting and disclosure enacted in this act is equivalent to the reporting and disclosure requirements of the California Health Facilities Disclosure Act as it existed on December 31, 1984. The study shall include a determination whether the system enacted in this act is sufficiently developed or is not sufficiently developed to replace the existing system of reporting and disclosure by January 1, 1986.

CHAPTER 1327

An act to amend Sections 5458, 5600, 5600.5, 5600.6, 5601, 5602, 5603, 5604, 5606, 5624, 5650, 5651.7, 5652, 5653, 5675, 5676, 5701, 5702, 5704.5, 5704.6, 5705, 5705.1, 5705.2, 5705.5, 5709, 5714, 5714.1, 5715, 5718, 5750, 5755, 5768, and 14021 of, to amend and renumber Sections 5600.5 and 5765 of, to amend, repeal, and add Section 5705.2 of, to amend and repeal Section 5710.1 of, to add Sections 5707.1, 5709.8, 5712.1, 5712.2, 5712.3, 5712.4, 5712.5, and 5770 to, to repeal and add Sections 5651, 5651.1, 5651.2, 5651.3, 5656, and 5714.2 of, to repeal Sections 5606.2, 5606.5, 5609, 5610, 5611, 5651.5, 5654, 5655.1, 5656.5, 5657, 5658, 5660, 5661, 5661.5, 5662, 5663, 5678, 5702.1, 5704, 5704.1, 5704.2, 5704.3, 5704.4, 5706, 5708.5, 5709.3, 5709.6, 5711, 5715.3, 5715.5, 5755.5, and 5756 of, to repeal Chapter 5 (commencing with Section 5800) of Part 2 of Division 5 of, the Welfare and Institutions Code, relating to mental health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 25, 1984.]

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

SECTION 1. The Legislature finds and declares that in view of the state's responsibility to provide, finance, and oversee public mental health programs thoughout the state, it is in the public interest to ensure the most efficient, flexible, and effective system of mental health programs possible.

Further, the goal of community mental health services has been inhibited by the growth of burdensome administrative expenses and the lack of adequate incentives to foster innovation and experimentation in mental health program development.

Therefore, it is the Legislature's intent that this act provide appropriate remedies to do all of the following:

(1) To reduce, wherever possible, nonessential indirect services and administrative costs.

(2) To increase flexibility for local programs to meet the needs of their clients.

(3) To promote and foster innovation in the development of alternative community treatment models.

SEC. 1.5. Section 5458 of the Welfare and Institutions Code is amended to read:

5458. The following shall be the programs in the community residential treatment system. These programs shall be designed to provide, at every level, alternatives to institutional settings. Counties in applying for these funds shall show how each of these programs works with the current programs and in-place programs. Counties may apply for funds in the following programs:

(a) A program for a short-term crisis residential alternative to

hospitalization for individuals experiencing an acute episode or situational crisis requiring temporary removal from their home environment. The program shall be available for admissions 24 hours a day, seven days a week. The primary focus of this program shall be on reduction of the crisis, on stabilization, and on a diagnostic assessment of the person's existing support system, including recommendations for referrals upon discharge.

The services in the program shall include, but not be limited to, provision for direct family work, connections to prevocational and vocational programs, and development of a support system, including income and treatment referrals. This program shall be designed for persons who would otherwise be referred to an inpatient unit, either locally or in the state hospital. It shall be a 24-hour program, with an emphasis on stabilization and appropriate referral for further treatment or support services, or both.

Respite care services may be provided as a component of this program.

(b) A long-term residential treatment program, with a full day treatment component as a part of the program, for persons who may require intensive support for as long as two or three years. This program shall be designed to provide a rehabilitation program for the so-called "chronic" patient who needs long-term support in order to develop independent living skills. The clients in this program are to be those who would otherwise be living marginally in the community with little or no service support, and who would return many times to the hospital for treatment. It also is to serve those who are referred to, and maintained in, state hospitals or nursing homes because they require long-term, intensive support. This program is to go beyond maintenance to provide an active rehabilitation focus for these individuals.

The services in this program shall include, but not be limited to, intensive diagnostic work, including learning disability assessment, full day treatment program with an active prevocational and vocational component, special education services, outreach to develop linkages with the general social service system, and counseling to aid clients in developing the skills to move toward a less structured setting.

(c) A transitional residential program designed for persons who are able to take part in programs in the general community, but who, without the support of counseling, as well as the therapeutic community, would be at risk of returning to the hospital. This program may employ a variety of staffing patterns and is for persons who may be expected to move toward a more independent living setting within approximately three months to one year. The clients shall be expected to play a major role in the functioning of the household, and shall be encouraged to accept increasing levels of responsibility, both in the residential community, and in the community as a whole. Residents are required to be involved in daytime activities outside of the house which are relevant to their

personal goals and conducive to their achieving more self-sufficiency.

The services in this program include, but are not limited to, counseling and ongoing assessment, development of support systems in the community, a day program which encourages interaction between clients and the community-at-large, and an activity program that encourages socialization and utilization of general community resources.

(d) A program for semisupervised, independent, but structured living arrangement for persons who do not need the intensive support of the other system programs, but who, without some support and structure, are at risk to return to a condition requiring hospitalization. The individual apartments or houses are to be shared by three to five persons. These small cooperative housing units shall function as independent households with direct linkages to staff support in case of emergencies, as well as for regular assessment and evaluation meetings. Individuals may use satellite housing as a transition to independent living, or may remain in this setting indefinitely in order to avoid the need for more intensive settings.

This program is for persons who only need minimum support in order to live in the community. These individuals may require rent subsidy, as well as the backup of another system, in order to remain in this setting. The satellite units are to be as normative as the general living arrangements in the communities in which they are developed.

(e) In areas applying for a system where there is no day treatment program, or where the day treatment program is housed totally in a hospital, the county shall be encouraged to develop such a program, consistent with the principles and practices outlined above, in a noninstitutional setting and employing a rehabilitation focus. Where there are already existing services, efforts should be made to assure the capability of such day treatment services with the goals of the system programs. This may require the relocation of such services or the addition of staff.

Community vocational training programs may be provided as a component of this program.

(f) The program for socialization centers shall be designed to serve a broad range of clients, including those in the system programs, when appropriate, as well as persons living in the community in general. This program is designed to provide regular daytime, evening, and weekend activities for persons who require long-term, structured support, but who do not receive such services in their living setting. Although the socialization center is meant to provide a maintenance support program for those individuals who only wish or require regular socialization opportunities, the programs should also provide the opportunity to develop the skills to move toward more independent functioning.

The services in this program shall include, but not be limited to, outings, recreational activities, cultural events, linkages to

community resources, as well as prevocational counseling, life skills training, and other rehabilitation efforts. This program is for persons who would lose contact with a social or treatment system, or both, if left to their isolated living situation, or their ability to participate in activities for the "general public." With this level of support, persons would be able to lead full and active lives, with the opportunity to develop the skills to move toward independent living. Also included in the program are adult education support programs which utilize community college and other adult education agencies. These services would provide opportunities to individuals throughout the community residential treatment system and in other living settings, including independent living, to develop skills necessary for independent living through the utilization of resources available to the general population.

(g) An in-home treatment program designed as an alternative to out-of-home placement for individuals who are otherwise not appropriate for, or do not choose to participate in, other elements of the community residential treatment system. This program is designed for those individuals who would benefit most from a treatment intervention in their home environment. It is a basic premise of this element that treatment focus on the development of family and other personal and community supports, rather than exclusively on the individual. The goal of the program is to reintegrate the individual with the family unit, when appropriate, and with the greater community without removing the person from his or her home environment.

The service may be designed as a crisis intervention for persons experiencing an acute episode or an ongoing independent living service, or both, for persons wishing to obtain or maintain housing and services in the community. Services provided shall include, but not be limited to, crisis intervention, family work, when appropriate, development of a specific treatment plan, development of an ongoing rehabilitation plan utilizing available resources in the community, and coordination with such services as case management, vocational rehabilitation, schools and other education services, and various special programs which would act as a support system for the individual.

(h) A volunteer-based companion program designed to encourage the development of personal relationships with residents of community care facilities with the goal of motivating and assisting residents to make a successful transition to independent living, or to programs of the community residential treatment system.

The service shall be provided primarily by volunteers, including students as a part of a college or university curriculum, who are supervised and coordinated by trained and experienced personnel. Services provided shall include, but not be limited to, recreation, one-to-one companionship, advocacy, and assistance in developing the knowledge and use of community resources, including housing and vocational services, and followup for persons who make the

transition to independent living.

(i) A self-help independent living program that utilizes mentally disabled persons living independently in the community to work with clients of the mental health system. Staff for this program shall consist of unpaid volunteers who are or have been clients of the mental health system. Paid staff shall be limited to coordinators of volunteer activities. The duties of the volunteers shall include, but not be limited to, training in independent living skills, housing advocacy and referral, financial benefits counseling, and peer counseling.

SEC. 2. Section 5600 of the Welfare and Institutions Code is amended to read:

5600. This part shall be known and may be cited as the Short-Doyle Act. This part is intended to organize and finance community mental health services for the mentally disordered in every county through locally administered and locally controlled community mental health programs. It is furthermore intended to better utilize existing resources at both the state and local levels in order to improve the effectiveness of necessary mental health services; to integrate state-operated and community mental health programs into a unified mental health system; to ensure that all mental health professions be appropriately represented and utilized in such mental health programs; to provide a means for participation by local governments in the determination of the need for and the allocation of mental health resources; to establish a uniform ratio of local and state government responsibility for financing mental health services; and to provide a means of allocating state mental health funds according to community needs.

The goals of the community mental health programs provided under this part are:

(a) To assist persons who are institutionalized, or who have a high risk of becoming institutionalized, because of a mental disorder, to lead lives which are as normal and independent as possible, consistent with their individual capacities and desires.

(b) To assist persons who experience temporary psychological problems, which disrupt normal living, to return as quickly as possible to a functioning level which enables them to cope with the problems of everyday life.

(c) To prevent serious mental disorders and psychological problems.

SEC. 3. Section 5600.5 of the Welfare and Institutions Code, as added by Chapter 1259 of the Statutes of 1983, is amended and renumbered to read:

5600.7. Local mental health directors shall make information about county operated or county contracted outpatient care programs for treatment of mental or nervous disorders available to insurers, hospital service plans, health care service plans, and similar entities, upon their request.

SEC. 4. Section 5600.5 of the Welfare and Institutions Code, as

added by Chapter 557 of the Statutes of 1979, is amended to read:

5600.5. It is the intent of the Legislature that the State Department of Mental Health shall encourage the development of high quality, cost-effective services. It is further the intent of the Legislature that poor quality underutilized, duplicative, or marginal services be disapproved by the department. Therefore, the department shall establish, in the same manner as it establishes regulations, guidelines and standards for county services.

SEC. 5. Section 5600.6 of the Welfare and Institutions Code is amended to read:

5600.6. The State Department of Mental Health may require local programs which are not meeting standards or are performing inadequately according to guidelines established pursuant to Section 5600.5 to submit a line item budget of proposed Short-Doyle expenditures. The department may deny any portion or portions of the Short-Doyle plan as necessary for redirecting funds within the county program so as to improve program performance and bring the county program up to standards.

SEC. 6. Section 5601 of the Welfare and Institutions Code is amended to read:

5601. As used in this part:

(a) "Governing body" means the county board of supervisors or boards of supervisors in the case of counties acting jointly; and in the case of a city, the city council or city councils acting jointly.

(b) "Conference" means the California Conference of Local Mental Health Directors as established under Section 5757.

(c) "County Short-Doyle plan" means the mental health plan which is required to be adopted by each county, or combination of counties acting jointly, in accordance with Section 5650.

(d) "Part 1" refers to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000)).

(e) "Director of Mental Health" means the Director of the State Department of Mental Health.

(f) "Institution" includes a general acute care hospital, a state hospital, a psychiatric health facility, a skilled nursing home, an intermediate care facility, a community care facility or other residential treatment facility, or a juvenile or criminal justice institution.

(g) "Mental health service" means any service directed toward early intervention in, or alleviation or prevention of, mental disorder, including, but not limited to, diagnosis, evaluation, treatment, personal care, day care, respite care, special living arrangements, community skill training, sheltered employment, socialization, case management, transportation, information, referral, consultation, and community services.

SEC. 7. Section 5602 of the Welfare and Institutions Code is amended to read:

5602. The board of supervisors of every county, or the boards of supervisors of counties acting under the joint powers provisions of

Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code shall establish a community mental health service to cover the entire area of the county or counties. Services to mentally disordered persons in the county or counties by county agencies and county institutions, by private agencies or facilities, and by the hospitals of the State Department of Mental Health shall be provided in accordance with the county Short-Doyle plan. Services of the State Department of Mental Health shall be provided to the county, or counties acting jointly, pursuant to Section 5401, or, if both parties agree, the state facilities may, in whole or in part, be leased, rented or sold to the county or counties for county operation, subject to such terms and conditions as are approved by the Director of General Services.

SEC. 8. Section 5603 of the Welfare and Institutions Code is amended to read:

5603. All state funds appropriated for mental health services shall be available for services provided by, or under contract with, the county pursuant to Section 5700, except for funds allocated for neuropsychiatric institutes, services to the judicially committed, central office functions, and research and training functions.

SEC. 9. Section 5604 of the Welfare and Institutions Code is amended to read:

5604. (a) Each community mental health service shall have an advisory board of 17 members appointed by the governing body except that such boards in counties with a population of less than 100,000 may have a minimum of 11 members. One member of the advisory board shall be the chairman of the local governing body. Not less than 51 percent of the members of the advisory board shall be persons representative of the public interest in mental health. However not less than one-half of the members representing the public interest shall be persons or the parents, spouse, or adult children of persons, who have received mental health services from a city or county Short-Doyle program or any of its contract agencies, a state hospital, or any public or private nonprofit mental health agency. The advisory board shall contain two physicians, one of whom shall specialize in psychiatry, and the remaining members shall be selected from among the following mental health professions: psychology, social work, nursing, marriage and family counseling, psychiatric technology, and hospital or community mental health facility administration. No more than one appointee from each of such professions shall be selected. Persons in the professions of education, law, criminal justice, and fiscal management may be considered as representatives of the general public. For members representing the public interest, the governing body shall appoint persons representing different disciplines. The governing body may designate a person of its choice who does not qualify as a professional member under this section to serve instead of the chair as a member of the advisory board.

(b) The term of each member of the board shall be for three

years. However, of the members first appointed to a board with 17 members, six shall be appointed for one year, six for a term of two years, and five for a term of three years. For members appointed to boards of less than 17 members, the governing body shall equitably stagger the appointments so that approximately one-third of the appointments shall be for one year, one-third for two years, and one-third for three years. If, however, prior to the expiration of such term a member ceases to retain the status which qualified the person for appointment on the board, the membership on the board shall terminate and there shall be a vacancy on the board.

(c) If two or more local agencies jointly establish a community mental health service under Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the advisory board for such community mental health service shall consist of an additional two members for each additional agency, one of whom shall be the chair of the governing body or a person who does not qualify as a professional member under this section designated by the governing body and the second of whom shall be a person or a parent, spouse, or adult child of a person who has received mental health services.

(d) No member of the advisory board or his or her spouse shall be a full-time or part-time county employee of the county mental health service, an employee of the State Department of Mental Health, or an employee of a Short-Doyle contract facility.

(e) If it is not possible to secure membership as specified from among persons who reside in the county, the governing body may substitute representatives of the public interest in mental health who are not full-time or part-time employees of the county mental health service, the State Department of Mental Health, or on the staff of a Short-Doyle contract facility.

SEC. 10. Section 5606 of the Welfare and Institutions Code is amended to read:

5606. The local mental health advisory board shall:

(a) Review and evaluate the community's mental health needs, services, facilities, and special problems.

(b) Review the county Short-Doyle plan or negotiated net amount contract entered into pursuant to subdivision (c) of Section 5705.2.

(c) Advise the governing body and the local mental health director as to any aspect of the local mental health program.

(d) Review and approve the procedures used to insure citizen and professional involvement at all stages of the planning process as specified in Section 5651.

(e) Submit an annual report to the governing body.

(f) Make recommendations regarding the appointment of a local director of mental health services.

SEC. 11. Section 5606.2 of the Welfare and Institutions Code is repealed.

SEC. 12. Section 5606.5 of the Welfare and Institutions Code is

repealed.

SEC. 13. Section 5609 of the Welfare and Institutions Code is repealed.

SEC. 14. Section 5610 of the Welfare and Institutions Code is repealed.

SEC. 15. Section 5611 of the Welfare and Institutions Code is amended to read:

5611. Any agreement between two or more counties or cities for the establishment of a joint mental health service may provide that the treasurer of one participating county or city shall be the custodian of moneys made available for the purposes of such joint services, and that the treasurer may make payments from such moneys upon audit of the appropriate auditing officer or body of the county or city for which he or she is treasurer.

SEC. 17. Section 5624 of the Welfare and Institutions Code is amended to read:

5624. Each county mental health program shall establish a quality assurance system that covers all county operated and county contracted mental health facilities and programs. As used in this section "quality assurance system" refers to a systematic approach for the evaluation of the quality of care which is designed to promote and maintain efficient, effective, and appropriate mental health services.

The quality assurance system shall contain at least the following components:

(a) Utilization review of all Short-Doyle funded inpatient services.

(b) Interdisciplinary peer review of the quality of patient care.

(c) Monitoring of the medication regimens of Short-Doyle clients including procedures to review the appropriateness of the medications prescribed, the appropriateness of the dosage levels prescribed, the effectiveness of the medications for the client, the occurrence of any adverse reactions, the extent of patient compliance, the level of patient information and ability to manage his or her own medication regimen; provided, that such monitoring shall be carried out by, be in conjunction with, or be under supervision of, a person licensed to prescribe or dispense prescription drugs.

The quality assurance system shall conform to the standards and guidelines for such systems established by the State Department of Mental Health, as specified in Section 4070.

The county's initial quality assurance system plan shall be reviewed and approved by the State Department of Mental Health annually.

SEC. 18. Section 5650 of the Welfare and Institutions Code is amended to read:

5650. The board of supervisors of each county, or boards of supervisors of counties acting jointly, shall adopt, and submit to the Director of Mental Health in the form and according to the

procedures specified by the director, an annual county plan for mental health services in the county or counties. The county plan shall be the basis for reimbursement pursuant to the provisions of this division and to coordinate services as specified in this chapter in such a manner as to avoid duplication, fragmentation of services, and unnecessary expenditures.

To achieve this purpose, a county plan shall provide for the most appropriate and economical use of all existing public and private agencies, licensed private institutions, and personnel. A county plan shall include the fullest possible and most appropriate participation by existing city Short-Doyle programs, local public and private general and psychiatric hospitals, state hospitals, city, county, and state health and welfare agencies, public guardians, mental health counselors, probation departments, physicians, psychologists, social workers, marriage, family and child counselors, public health nurses, psychiatric technicians, and all such other public and private agencies and personnel as are required to, or may agree to, participate in the county Short-Doyle plan.

For the purposes of this section, "marriage, family and child counselor" means a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions which is equivalent to the instruction required for licensure on January 1, 1981.

The Director of Mental Health shall develop standard forms to be used by the counties in the submitting of the county plan. The forms shall include terms and conditions relative to county compliance with applicable laws, regulations, standards, and guidelines.

The department shall develop and implement the requirements, format, procedures and submission dates for the preparation and submission of the plan. Except for the projected budget summary required by subdivision (d) of Section 5651, in order for the counties to have sufficient time to prepare a plan, the submission date established by the director shall be no earlier than 60 days after the county has been issued its final allocation by the department.

That part of the annual Short-Doyle plan described in subdivision (d) of Section 5651 shall be submitted by the county to the department no later than 60 days after the department issues to the county the preliminary allocation of funds for the year covered in the plan.

SEC. 19. Section 5651 of the Welfare and Institutions Code is repealed.

SEC. 20. Section 5651 is added to the Welfare and Institutions Code, to read:

5651. The annual Short-Doyle plan for each county shall include all of the following:

(a) A detailed presentation of all expected expenditures of county, state, and federal government funds and all anticipated

public and private revenues.

(b) A programmatic description of each of the services provided for in subdivision (a) including all of the following:

(1) Program type using definitions prescribed in the cost allocation and planning model where applicable.

(2) The number of staff in full-time equivalents if this information is applicable to the service type.

(3) An estimate of the unduplicated number of clients served and the number of units of service to be provided.

(4) The priority populations to be served.

(5) The number of beds if this information is applicable to the service type.

(6) A detailed description of the program if the service is one newly added in the year for which the annual Short-Doyle plan is submitted or newly added in the prior year.

(7) A detailed description of the service if the number of units of services or the cost per unit of service has changed more than 25 percent from the annual Short-Doyle plan submitted for the previous year.

(8) A detailed description of renovation or remodeling costs, if any.

(c) Additional information as may be necessary to meet local planning needs as determined by the county.

(d) A summary presentation of all expected expenditures of county, state, and federal government funds and all anticipated public and private revenues.

(e) Assurances that the county is in compliance with the following requirements:

(1) The Local Mental Health Advisory Board has reviewed and approved procedures insuring citizen and professional involvement leading to the formulation and adoption of the annual Short-Doyle plan.

(2) A quality assurance plan approved by the department is in force.

(3) Certification review hearing procedures approved by the department are in force.

(4) A plan for providing case management services approved by the department is in force.

(f) Other information determined to be necessary by the director.

Any county that wishes to modify its plan shall obtain prior approval by the department in accordance with procedures established by the director.

SEC. 21. Section 5651.1 of the Welfare and Institutions Code is repealed.

SEC. 22. Section 5651.1 is added to the Welfare and Institutions Code, to read:

5651.1. In developing and providing the services of a county mental health program, the county shall consider, and make provision for, all of the following priority populations:

(a) Chronically mentally ill.
(b) Mentally disturbed children and adolescents.
(c) Mentally ill elderly.
(d) Mentally ill jail inmates and mentally ill wards of juvenile detention facilities.
(e) Underserved populations.

The enumeration of priority populations in this section does not establish a priority ranking.

SEC. 23. Section 5651.2 of the Welfare and Institutions Code is repealed.

SEC. 24. Section 5651.2 is added to the Welfare and Institutions Code, to read:

5651.2. The Legislature recognizes the need for respite services for persons responsible for the care of mentally disordered individuals. The Legislature further recognizes that such services may prevent the unnecessary institutionalization of persons who could be cared for at home or in small family care homes.

SEC. 25. Section 5651.3 of the Welfare and Institutions Code is repealed.

SEC. 26. Section 5651.3 is added to the Welfare and Institutions Code, to read:

5651.3. In providing services under this part, a county shall give first priority to services required for acute patient and involuntary patients.

SEC. 27. Section 5651.5 of the Welfare and Institutions Code is repealed.

SEC. 28. Section 5651.7 of the Welfare and Institutions Code is amended to read:

5651.7. The Legislature recognizes the need for certain mental health services to be provided in settings outside of the physical facilities which house providers of care and service. Such services include multidisciplinary crisis interventions in settings in which the crises occur, with a goal of preventing unnecessary and costly disruption of normal living. For purposes of this section, such services shall be called "extramural crisis intervention."

SEC. 29. Section 5652 of the Welfare and Institutions Code is amended to read:

5652. When the county Short-Doyle plan is submitted to the Director of Mental Health it shall be accompanied by a document indicating the plan has been reviewed by the local mental health advisory board.

SEC. 30. Section 5653 of the Welfare and Instititions Code is amended to read:

5653. In developing the county Short-Doyle plan, optimum use shall be made of appropriate local public and private organizations, community professional personnel, and state agencies. Optimum use shall also be made of federal, state, county, and private funds which may be available for mental health planning.

In order that maximum utilization be made of federal and other

funds made available to the Department of Rehabilitation, the Department of Rehabilitation may serve as a contractual provider under the provisions of a county Short-Doyle plan of vocational rehabilitation services for the mentally disordered.

SEC. 31. Section 5654 of the Welfare and Institutions Code is repealed.

SEC. 32. Section 5655.1 of the Welfare and Institutions Code is repealed.

SEC. 33. Section 5656 of the Welfare and Institutions Code is repealed.

SEC. 34. Section 5656 is added to the Welfare and Institutions Code, to read:

5656. In order to meet the routine information needs of the Legislature, including those of the Legislative Analyst, budget committees, and policy committees, the Department of Finance, the State Department of Mental Health, the Office of Statewide Planning and Development, and county mental health programs, the department shall issue guidelines to improve data collection. At a minimum the guidelines shall do all of the following:

(a) Establish uniform definitions and time increments for reporting type and cost of services received by local mental health program clients.

(b) Establish a minimum set of data to be collected for each client served, including, but not limited to, mode of service, service function code, units of service, admission and discharge dates, financial responsibility code, provider name and number, estimated cost by duration of unit of service, and client's case number, date of birth, sex and ethnicity, client's initials, legal class, functional level rating, and diagnosis.

(c) Require counties to furnish monthly data as described in subdivision (b) on an individual client basis to the State Department of Mental Health. To ensure client confidentiality, this data shall not include client names.

(d) Require selected counties to provide any data needed by the department to facilitate system development and testing.

(e) Permit those counties which the director determines are not able to provide the data required in subdivision (b) to delay submission of that data until such time as submission is determined by the director to be feasible.

SEC. 35. Section 5656.5 of the Welfare and Institutions Code is repealed.

SEC. 36. Section 5657 of the Welfare and Institutions Code is repealed.

SEC. 37. Section 5658 of the Welfare and Institutions Code is repealed.

SEC. 38. Section 5660 of the Welfare and Institutions Code is repealed.

SEC. 39. Section 5661 of the Welfare and Institutions Code is repealed.

SEC. 40. Section 5661.5 of the Welfare and Institutions Code is repealed.

SEC. 41. Section 5662 of the Welfare and Institutions Code is repealed.

SEC. 42. Section 5663 of the Welfare and Institutions Code is repealed.

SEC. 43. Section 5675 of the Welfare and Institutions Code is amended to read:

5675. It is the intent of the Legislature to encourage the development of case management systems for mentally disordered clients who have the highest hospital readmission rate, in order to establish a more cost efficient method of reducing hospitalization. It is further the intent of the Legislature, that case management systems in this state be developed in accordance with the principles of this chapter and the guidelines developed pursuant to this chapter.

SEC. 44. Section 5676 of the Welfare and Institutions Code is amended to read:

5676. The department shall define the target population with high hospital readmissions to be served by the case management system and shall also develop guidelines to assist the county in implementing the requirements for a case management system specified in Section 5677. Such guidelines shall allow each county the flexibility to design a system specific to the nature of the community and the needs of clients.

SEC. 45. Section 5678 of the Welfare and Institutions Code is repealed.

SEC. 47. Section 5701 of the Welfare and Institutions Code is amended to read:

5701. A single appropriation shall be made to the State Department of Mental Health for mental health services under the Short-Doyle Act.

SEC. 48. Section 5702 of the Welfare and Institutions Code is amended to read:

5702. The department shall continue to receive separate appropriations for central office functions, research and training functions, and state hospital services for the judicially committed.

SEC. 49. Section 5702.1 of the Welfare and Institutions Code is repealed.

SEC. 50.5. Section 5704 of the Welfare and Institutions Code is repealed.

SEC. 51. Section 5704.1 of the Welfare and Institutions Code is repealed.

SEC. 52. Section 5704.2 of the Welfare and Institutions Code is repealed.

SEC. 53. Section 5704.3 of the Welfare and Institutions Code is repealed.

SEC. 54. Section 5704.4 of the Welfare and Institutions Code is repealed.

SEC. 55. Section 5704.5 of the Welfare and Institutions Code is amended to read:

5704.5. It is the intent of the Legislature that special consideration be given to children's services in funding county Short-Doyle plans to expand existing programs or to establish new programs.

A county may not decrease the proportion of its Short-Doyle allocation expended for children's services below the proportion expended in the 1983–84 fiscal year unless a determination has been made by the governing body in a noticed public hearing that the need for new or expanded services to persons under age 18 has significantly decreased.

SEC. 56. Section 5704.6 of the Welfare and Institutions Code is amended to read:

5704.6. (a) Except as provided in subdivision (c), after July 1, 1979, each county shall allocate for services to persons under age 18, 50 percent of the amount of any budget augmentation received for new or expanded mental health programs until the amount expended for mental health services to persons under age 18 equals not less than 25 percent of the county's gross budget for mental health or not less than the percentage of persons under age 18 in the total population of the county, whichever percentage is less. Once achieved, this minimum ratio shall be maintained continuously thereafter.

(b) As used in this section, the term "new or expanded mental health programs" does not include any such programs which are required by statute, or such programs which provide alternatives to hospitalization for patients of state hospitals.

(c) From each budget augmentation for new or expanded mental health programs, a county may allocate to persons under age 18 an amount less than the percentage required in subdivision (a) when a determination has been made by the governing body in a noticed public hearing that the need for new or expanded services to persons under age 18 does not exist or is less than the need for services to one or more specified groups of adults. Such determination shall be a part of the local mental health plan approved by the Director of Mental Health.

The provisions of this section shall be deemed inoperative for the period July 1, 1984, to June 30, 1985, inclusive.

SEC. 57. Section 5705 of the Welfare and Institutions Code is amended to read:

5705. (a) The net cost of all services specified in the approved county Short-Doyle plans shall be financed on a basis of 90 percent state funds and 10 percent county funds, except for local hospital inpatient costs, which shall be financed on a basis of 85 percent state funds and 15 percent county funds, irrespective of where or by whom the services are provided, except for services to be financed from other public or private sources as indicated in the county Short-Doyle plan. The cost of the services shall be the actual cost,

except for 24-hour hospital services, or a negotiated net amount or rate approved by the Director of Mental Health as provided in Section 5705.2. The cost of 24-hour hospital services shall be the lower of the provider's actual costs or 125 percent of the statewide average for the cost of 24-hour hospital services established pursuant to Section 5705.1. In counties of less than 100,000 population, the cost requirement for local financial participation shall be waived for all programs except local hospital inpatient and state hospital services. It is the intent of the Legislature that counties under 100,000 population provide as much of the 10-percent match as possible for mental health programs within budgetary constraints.

(b) The cost of state hospital services shall be financed on the basis of 85 percent state funds and 15 percent county funds, except that in counties with less than 100,000 population, the cost of state hospital services shall be financed on the basis of 90 percent state funds and 10 percent county funds.

The State Department of Mental Health is hereby permitted to reallocate any funds which are not matched by counties with the approval of the Joint Legislative Budget Committee using a letter as prescribed in Section 28 of the Budget Act, provided such reallocated funds shall not be counted into the base allocation.

SEC. 58. Section 5705.1 of the Welfare and Institutions Code is amended to read:

5705.1. (a) The Director of Mental Health shall establish the amount of reimbursement for 24-hour hospital services specified in the approved county Short-Doyle plans.

(b) In establishing the amount of reimbursement for 24-hour hospital services, no amount shall exceed the lower of each individual provider's actual cost or 125 percent of the statewide weighted average of the cost of services as reflected in the most recently completed cost reports. This shall not prohibit the adjustment of the rates for cost-of-living increases appropriated by the Legislature. This subdivision shall not apply to prepaid health plans or in those cases where the county and the state or the county and the provider have entered into a negotiated net amount contract in accordance with Section 5705.2.

(c) The Director of Mental Health, subject to the availability of funds, may approve a waiver of the 125 percent limitation set forth in subdivision (b) requested by the board of supervisors of a county if the county demonstrates that the imposition of the 125 percent limitation will result in a substantial inability to provide mental health services. The department shall report annually to the Legislature as to the factors justifying waivers granted by it.

(d) The provisions of subdivision (b) shall not apply to consolidated mental health programs established in accordance with Article 5 (commencing with Section 14660) of Chapter 8.8 of Division 9.

(e) Notwithstanding the provisions of this section, in the event that a health facility has entered into a negotiated rate agreement

pursuant to Article 2.6 (commencing with Section 14081) of Chapter 7 of Part 4 of Division 9, the facility's rates shall be governed by such agreement.

SEC. 59. Section 5705.2 of the Welfare and Institutions Code, as amended by Section 3 of Chapter 1207 of the Statutes of 1983, is amended to read:

5705.2. (a) It is the intent of the Legislature that the use of negotiated net amounts or rates, as provided in subdivision (b), be given preference in contracts for services under this division.

(b) Negotiated net amounts or rates may be used as the cost of services only in accordance with the following provisions:

(1) A negotiated net amount shall be determined by calculating the total budget for services for a program or a component of a program, less the amount of projected revenue. This net amount shall be negotiated between the provider of services and the county mental health program, and may be used by providers in contracts with the county. The negotiated net amount shall be submitted to the State Department of Mental Health prior to the commencement date of the contract. No contract shall become final until the State Department of Mental Health has approved the net amount. If approval is received after the commencement date of the contract, the approval shall be retroactive to the commencement date. Should the negotiated net amount be disapproved after the commencement date of the contract, the provider shall be compensated for work performed pursuant to the contract in accordance with the provisions of Section 5705. Once the negotiated net amount is approved by the State Department of Mental Health, all participating government funding sources, except for the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9), shall be bound to that amount as the cost of providing all or part of the total county mental health program as described in the county Short-Doyle plan for each fiscal year to the extent that the governmental funding source participates in funding the county mental health program. Where the State Department of Health Services promulgates regulations for determining reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program, those regulations shall be controlling only as to the rates for reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries. Providers under this subdivision shall report to the State Department of Mental Health and the local mental health program any information required by the State Department of Mental Health in accordance with procedures established by the Director of Mental Health. Contracts entered into pursuant to this paragraph shall be financed within an approved Short-Doyle plan or contract.

Notwithstanding any other provision of this division or Division 9 (commencing with Section 10000), absent a finding of fraud, abuse, or failure to achieve contract objectives, no restrictions, other than

any contained in the contract, shall be placed upon a provider's expenditure or retention funds received pursuant to this paragraph.

(2) A negotiated rate is the payment for services delivered on a per unit of service basis. This rate shall be negotiated between the provider of services and the county mental health program. The negotiated rate shall be submitted to the State Department of Mental Health prior to the commencement date of the contract. No contract shall become final until the State Department of Mental Health has approved the rate. If approval is received after the commencement date of the contract, the approval shall be retroactive to the commencement date. Should the negotiated rate be disapproved after the commencement date of the contract, the provider shall be compensated for work performed pursuant to the contract in accordance with the provisions of Section 5705. Once this rate is approved by the State Department of Mental Health, all participating governmental funding shall be bound by that amount as the cost of providing that service for that county mental health program to the extent that the governmental funding source participates in funding the county mental health program. Where the State Department of Health Services promulgates regulations for determining reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program, those regulations shall be controlling only as to the rates for reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries. Providers under this subdivision shall report to the State Department of Mental Health and the local mental health program any information required by the State Department of Mental Health in accordance with procedures established by the Director of Mental Health.

Notwithstanding any other provision of this division or Division 9 (commencing with Section 10000), absent a finding of fraud, abuse, or failure to achieve contract objectives, no restrictions, other than any contained in the contract, shall be placed upon a provider's expenditure or retention of funds received pursuant to this paragraph.

(c) The director may negotiate net amount contracts between counties and the State Department of Mental Health in lieu of the Short-Doyle plan and budgets. Provisions of the contract shall include at least the following:

(1) Assurance of an adequate quality and quantity of services.

(2) Provision for access to services by patients residing within the contracting county.

(3) Statistical and cost reporting necessary to maintain the statewide mental health data base. For the purpose of verifying the conformance to provisions of the contract and the establishment of data necessary for subsequent contract negotiation, the State Department of Mental Health shall have access to financial and service records.

(4) A method for reimbursing the State Department of Mental

Health for state hospital obligations incurred by the county.

(5) Assurance that citizen participation as described in Section 5606 will be achieved.

(6) A negotiated net amount contract shall not preclude the county from subcontracting to purchase all or part of the delivery of mental health services from noncounty providers.

(7) Assurance that all funds paid out by the state under this subdivision shall be used exclusively for the purpose of providing mental health services, which shall include, but not be limited to, defraying operating and capital costs.

Contracts entered into under this subdivision shall be subject to all the provisions of subdivisions (a) and (b), but shall be exempt from the requirements contained in the Public Contract Code and the State Administrative Manual, and shall be exempt from approval by the Department of General Services.

(d) It is not the intent of the Legislature to preclude counties from reimbursing providers by using methods other than those in this section when these counties are part of a Short-Doyle and Medi-Cal consolidation program established pursuant to Article 5 (commencing with Section 14660) of Chapter 8.8 of Part 3 of Division 9.

(e) Counties that propose to negotiate rate or net amount contracts with the State Department of Mental Health pursuant to subdivision (c) in lieu of the Short-Doyle annual plan shall inform the Mental Health Advisory Board of its intentions in the following ways:

(1) Prior to opening of negotiations, the local program director shall submit to the board an outline of issues to be negotiated and the intended agreement on each issue.

(2) At each regular meeting of the board, during the period of negotiations, the local program director shall inform the board of progress on each issue and shall request the board's advice on how to further proceed on the negotiations.

(f) The county shall bear the financial risk in providing any and all mental health services to the population described and enumerated in the approved contract within the net amount.

(g) This section shall remain in effect only until July 1, 1987, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1987, deletes or extends such date.

SEC. 60.1. Section 5705.2 of the Welfare and Institutions Code, as added by Section 4 of Chapter 1207 of the Statutes of 1983, is repealed.

SEC. 60.2. Section 5705.2 is added to the Welfare and Institutions Code, to read:

5705.2. (a) It is the intent of the Legislature that the use of negotiated net amounts or rates, as provided in subdivision (b), be given preference in contracts for services under this division.

(b) Negotiated net amounts or rates may be used as the cost of services only in accordance with the following provisions:

(1) A negotiated net amount shall be determined by calculating

the total budget for services for a program or a component of a program, less the amount of projected revenue. This net amount shall be negotiated between the provider of services and the county mental health program, and may be used by providers in contracts with the county. The negotiated net amount shall be submitted to the State Department of Mental Health prior to the commencement date of the contract. No contract shall become final until the State Department of Mental Health has approved the net amount. If approval is received after the commencement date of the contract, the provider shall be compensated for work performed pursuant to the contract in accordance with the provisions of Section 5705. Once the negotiated net amount is approved by the State Department of Mental Health, all participating government funding sources, except for the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9), shall be bound to that amount as the cost of providing all or part of the total county mental health program as described in the county Short-Doyle plan for each fiscal year to the extent that the governmental funding source participates in funding the county mental health program. Where the State Department of Health Services promulgates regulations for determining reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program, those regulations shall be controlling only as to the rates for reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries. Providers under this subdivision shall report to the State Department of Mental Health and the local mental health program any information required by the State Department of Mental Health in accordance with procedures established by the Director of Mental Health. Contracts entered into pursuant to this paragraph shall be financed within an approved Short-Doyle plan or contract.

Notwithstanding any other provision of this division or Division 9 (commencing with Section 10000), absent a finding of fraud, abuse, or failure to achieve contract objectives, no restrictions, other than any contained in the contract, shall be placed upon a provider's expenditure or retention of funds received pursuant to this paragraph.

(2) A negotiated rate is the payment for services delivered on a per unit of service basis. This rate shall be negotiated between the provider of services and the county mental health program. The negotiated rate shall be submitted to the State Department of Mental Health prior to the commencement date of the contract. No contract shall become final until the State Department of Mental Health has approved the rate. If approval is received after the commencement date of the contract, the approval shall be retroactive to the commencement date of the contract, the provider shall be compensated for work performed pursuant to the contract in accordance with the provisions of Section 5705. Once this rate is approved by the State Department of Mental Health, all

participating governmental funding sources shall be bound by that amount as the cost of providing that service for that county mental health program to the extent that the governmental funding source participates in funding the county mental health program. Where the State Department of Health Services promulgates regulations for determining reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program, those regulations shall be controlling only as to the rates for reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries. Providers under this subdivision shall report to the State Department of Mental Health and the local mental health program any information required by the State Department of Mental Health in accordance with procedures established by the Director of Mental Health.

Notwithstanding any other provision of this division or Division 9 (commencing with Section 10000), absent a finding of fraud, abuse, or failure to achieve contract objectives, no restrictions, other than any contained in the contract, shall be placed upon a provider's expenditure or retention of funds received pursuant to this paragraph.

This section shall become operative July 1, 1987.

SEC. 61. Section 5705.5 of the Welfare and Institutions Code is amended to read:

5705.5. It is the intent of the Legislature to encourage counties to contract with nonprofit community organizations in order to provide innovative, noninpatient treatment services for persons specified in this part. Such services should be consistent with program priorities developed by the Director of Mental Health after consultation with the Citizens Advisory Council and the Conference of Local Mental Health Directors. Such contracts shall provide for at least one of the following: (a) outpatient services, including indigenous, self-help services, (b) rehabilitative services, (c) precare and aftercare services, including residential facilities and halfway houses. Each contract shall also provide methods for evaluating the effectiveness of the services provided.

SEC. 62. Section 5706 of the Welfare and Institutions Code is repealed.

SEC. 63. Section 5707.1 is added to the Welfare and Institutions Code, to read:

5707.1. Notwithstanding any other provision of law, the Short-Doyle plan shall be exempt from the requirements contained in the Public Contract Code and the State Administrative Manual, and shall be exempt from approval by the Department of General Services.

SEC. 64. Section 5708.5 of the Welfare and Institutions Code is repealed.

SEC. 65. Section 5709 of the Welfare and Institutions Code is amended to read:

5709. Nothing in Sections 5705 to 5708, inclusive, shall prevent a

county, or counties acting jointly, from appropriating additional funds for mental health services. In no event shall counties be required to appropriate more than the amount required under the provisions of this chapter.

SEC. 66. Section 5709.3 of the Welfare and Institutions Code is repealed.

SEC. 67. Section 5709.6 of the Welfare and Institutions Code is repealed.

SEC. 69. Section 5709.8 is added to the Welfare and Institutions Code, to read:

5709.8. The department shall provide treatment and care in the community for judicially committed persons.

The department may provide directly, or through contract with private providers or counties, for community treatment of judicially committed patients. Subject to approval by the department, a county may provide these services directly, or may contract with private providers, for such services.

This section shall become operative January 1, 1986.

SEC. 70. Section 5710.1 of the Welfare and Institutions Code is amended to read:

5710.1. If any person is committed to a local mental health facility or is ordered to undergo outpatient treatment pursuant to Section 1026, 1026.1, 1368, or 1370.3 of the Penal Code or as a mentally disordered sex offender, or if any person committed to a state hospital or local mental health facility pursuant to Section 1026 or 1370 of the Penal Code or as a mentally disordered sex offender receives outpatient treatment pursuant to court approval, the county mental health program providing such inpatient or outpatient treatment services shall be reimbursed for the expenditures made by it for such services pursuant to this chapter except that the state's share shall be 100 percent of such expenditures. Each county Short-Doyle plan shall include provision for such services in the plan.

This section shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends that date.

SEC. 70.5. Section 5710.1 of the Welfare and Institutions Code is amended to read:

5710.1. If any person is committed to a local mental health facility or is ordered to undergo outpatient treatment pursuant to Section 1026, 1026.1, 1368, or 1370.3 of the Penal Code or as a mentally disordered sex offender, or if any person committed to a state hospital or local mental health facility pursuant to Section 1026 or 1370 of the Penal Code or as a mentally disordered sex offender receives outpatient treatment pursuant to court approval, the county mental health program providing such inpatient or outpatient treatment services shall be reimbursed for the expenditures made by it for such services pursuant to this chapter except that the state's share shall be 100 percent of such expenditures. Each county Short-Doyle plan shall include provision for such services in the plan.

The department shall develop a formula to allocate available state funds under this section to ensure that all participating counties that receive categorical funding pursuant to Chapter 1274 of the Statutes of 1975 are funded on an equitable basis.

This section shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends that date.

SEC. 71. Section 5711 of the Welfare and Institutions Code is repealed.

SEC. 72. Section 5712.1 is added to the Welfare and Institutions Code, to read:

5712.1. Each county receiving funds pursuant to this part shall establish such fiscal controls and accounting procedures as may be necessary to assure proper disbursal and accounting of the funds.

Each county shall annually conduct or obtain an audit of its expenditure of funds received under this part, beginning with the 1983–84 fiscal year. In those cases where the county conducts an audit, personnel conducting the audit shall be independent of the county mental health program. Where the county obtains an audit, the audits shall be conducted by a party, organization, or entity, independent of any party, organization, or entity, administrating a program funded by the state. Audits of local mental health programs shall be in accordance with guidelines published by the department and published standards for auditing governmental organizations, programs, activities, and functions. The audit guidelines published by the department shall identify the financial and compliance criteria to be used in the audit conducted pursuant to this section and shall be reviewed by the Controller prior to implementation. Audits of county contracted programs shall be made to their submitted cost reports, and conducted in accordance with generally accepted accounting standards. No later than 180 days after the end of the fiscal year, each county shall notify the department, in writing, of the auditor or auditors who will be conducting the audit of that fiscal year and indicate the scheduled beginning date for the audit. Audits shall be completed no later than 12 months from the end of the fiscal year audited.

Within 30 days following the date of completion of audit, the county shall transmit a copy of the audit to the department. The department shall review all the audit reports and shall follow up and initiate action on all audit exceptions affecting the expenditure of state funds. The department shall initiate this action within 120 days of the date of the audit report.

In the event that a local mental health service disputes any audit findings, the local mental health service may request a review of the audit findings by the Director of Mental Health. Upon receipt of a request for review, the Director of Mental Health, or his or her designee, shall conduct a review of the audit findings.

The Director of Mental Health may establish such policies and procedures as may be necessary to implement the provisions of this

section.

SEC. 73. Section 5712.2 is added to the Welfare and Institutions Code, to read:

5712.2. Each county shall submit a cost report to the department for each fiscal year ending June 30, no later than November 30 of that year, in the form and manner determined by the department.

SEC. 74. Section 5712.3 is added to the Welfare and Institutions Code, to read:

5712.3. A county shall repay to the state amounts found not to have been expended in accordance with the requirements set forth in this part. Repayment shall be within 30 days after it is determined that an expenditure has been made that is not in accordance with the requirements. In the event that repayment is not made in a timely manner, the department shall offset any amount improperly expended against the amount of any current or future grant from the state for mental health services.

SEC. 75. Section 5712.4 is added to the Welfare and Institutions Code, to read:

5712.4. (a) Claims or demands for payment or repayment of state funds arising as a result of audit findings issued for acts performed prior to July 1, 1984, shall be waived in accordance with this section.

(b) "Audit findings" for the purpose of this section means claims or demands for payment or repayment resulting from those audit reports issued by the department with regard to which no final action has occurred, or has been taken, to effect payment or repayment of funds prior to the effective date of this section.

(c) The waiver of audit findings pursuant to this section applies only to state funds from appropriations for Short-Doyle mental health services and to the state's share of payments made in support of the Medi-Cal program for Short-Doyle mental health services. The federal portion of payments made for Medi-Cal services shall not be affected by the waiver provisions of this section unless and until the federal government agrees to waive its rights from repayment of the federal share.

The amount of the payment or repayment of federal funds in accordance with audit findings pertaining to Short-Doyle mental health services shall be determined by the Director of Health Services pursuant to the existing administrative appeals process of the State Department of Health Services.

(d) No provision of this section applies to any audit report issued by the department after January 1, 1985, relating to acts performed subsequent to July 1, 1984.

SEC. 76. Section 5712.5 is added to the Welfare and Institutions Code, to read:

5712.5. The director shall review and approve all proposed electronic data-processing expenditures by counties funded pursuant to the provisions of this part.

SEC. 77. Section 5714 of the Welfare and Institutions Code is

amended to read:

5714. Of the funds allocated to each county in accordance with Sections 5704 to 5708, inclusive, the department shall reimburse to each county the amount required by that county to carry out its local mental health activity in accordance with the approved county Short-Doyle plan required by Chapter 2 (commencing with Section 5650) and in accordance with Section 5705. The department shall make an advance to each county not to exceed 95 percent of the county's total allocation. The advance shall be paid monthly in 12 equal increments. Each county shall submit to the department a cost report after the close of the fiscal year, whereupon all remaining amounts due to a county or to the state shall be settled. So much of each county allocation as is required to care for patients in state hospitals shall be retained by the state and used to support such hospitals.

SEC. 78. Section 5714.1 of the Welfare and Institutions Code is amended to read:

5714.1. Advances for funding mental health services shall be made in such form and in such manner as the Director of Mental Health shall determine. When certified by the Director of Mental Health, advances shall be presented to the Controller for payment.

Each advance shall be payable from the appropriation made for the fiscal year in which the expenses upon which the advance is based are incurred.

SEC. 79. Section 5714.2 of the Welfare and Institutions Code is repealed.

SEC. 80. Section 5714.2 is added to the Welfare and Institutions Code, to read:

5714.2. Subject to the approval of the department, at the end of the fiscal year, a county may retain unexpended funds allocated to it, exclusive of the amount required to care for patients in state hospitals, for 12 months for expenditure for mental health services in accordance with the provisions of this part.

However, no such funds shall be used for 24-hour hospital services.

SEC. 81. Section 5715 of the Welfare and Institutions Code is amended to read:

5715. Expenditures subject to payment shall include expenditures for the items specified in Section 5401; negotiated amounts approved by the department pursuant to Section 5705.2; salaries of personnel; approved facilities and services provided through contract; operation, maintenance, and service costs; depreciation of county facilities as established in the state's uniform accounting manual, disregarding depreciation on such a facility to the extent it was financed by state funds under this part; lease of facilities where there is no intention to, nor option to, purchase; expenses incurred under this act by members of the Conference of Local Mental Health Directors for attendance at regular meetings of such conferences; and such other expenditures as may be approved by the Director of Mental Health. Except for expenditures made

pursuant to Article 6 (commencing with Section 436.30) of Chapter 4 of Part 1 of Division 1 of the Health and Safety Code, it shall not include expenditures for initial capital improvements; the purchase or construction of buildings except for such equipment items and remodeling expense as may be provided for in regulations of the State Department of Mental Health; compensation to members of a local mental health advisory board (except actual and necessary expenses incurred in the performance of official duties which may include travel, lodging, and meals while on official business); or expenditures for a purpose for which state reimbursement is claimed under any other provision of law.

SEC. 82. Section 5715.3 of the Welfare and Institutions Code is repealed.

SEC. 83. Section 5715.5 of the Welfare and Institutions Code is repealed.

SEC. 84. Section 5718 of the Welfare and Institutions Code is amended to read:

5718. Charges shall be made for services rendered to each person under a county Short-Doyle plan in accordance with this section. Charges for the care and treatment of each such patient receiving service under a county Short-Doyle plan shall not exceed the actual or negotiated cost thereof as determined or approved by the Director of Mental Health in accordance with standard accounting practices. The director is not prohibited from including the amount of expenditures for capital outlay or the interest thereon, or both, in his or her determination of actual cost. The responsibility of a patient, his or her estate, or his or her responsible relatives to pay such charges and the powers of the director with respect thereto shall be determined in accordance with Article 4 (commencing with Section 7275) of Chapter 3 of Division 7.

The director may delegate to each county all or part of the responsibility for determining the liability of patients rendered services under a county Short-Doyle plan other than in a state hospital, and of their estates or responsible relatives to pay such charges, and all or part of the responsibility for collecting such charges. If such responsibility is delegated by the director, the director shall establish and maintain the policies and procedures for making such determinations and collections, and each county to which the responsibility is delegated shall comply with such policy and procedures.

The director shall prepare and adopt a uniform patient fee schedule to be used in all mental health agencies for services rendered to each patient. In preparing such uniform patient fee schedule, the director shall take into account the existing charges for state hospital services and those for Short-Doyle Act community mental health program services. If the director determines that it is not practicable to devise a single uniform patient fee schedule applicable to both state hospital services and services of other mental health agencies, the director may adopt a separate fee schedule for

state hospital services which differs from the uniform patient fee schedule applicable to other mental health agencies.

SEC. 85. Section 5750 of the Welfare and Institutions Code is amended to read:

5750. The State Department of Mental Health shall administer this part and shall adopt standards for approval of mental health services, and rules and regulations necessary thereto. However, these standards, rules, and regulations shall be adopted only after consultation with the Citizens Advisory Council and the California Conference of Local Mental Health Directors. Adoption of these standards, rules, and regulations shall require approval by the California Conference of Local Mental Health Directors by majority vote of those present at an official session.

If the conference refuses or fails to approve standards, rules, or regulations submitted to it by the State Department of Mental Health for its approval, the State Department of Mental Health may submit these standards, rules, or regulations to the conference at its next meeting, and if the conference again refuses to approve them, the matter shall be referred for decision to a committee composed of the Secretary of the Health and Welfare Agency, the Director of Mental Health, the President of the California Conference of Local Mental Health Directors, the Chairman of the Citizens Advisory Council, and a member designated by the State Advisory Health Council.

SEC. 86. Section 5755 of the Welfare and Institutions Code is amended to read:

5755. Each year, the State Department of Mental Health shall adopt and submit to the Legislature a state plan for community mental health services. The director shall consult with the California Conference of Local Mental Health Directors and the Citizens Advisory Council in developing the state plan. The plan shall be updated and amended as necessary.

SEC. 87. Section 5755.5 of the Welfare and Institutions Code is repealed.

SEC. 88. Section 5765 of the Welfare and Institutions Code is amended and renumbered to read:

5755.1. The state mental health plan shall be submitted to the Citizens Advisory Council and the Advisory Health Council or its successor for review and recommendations as to conformance with California's comprehensive statewide health plan. The state mental health plan shall be submitted for review and recommendations prior to amendments or changes thereto.

SEC. 89. Section 5756 of the Welfare and Institutions Code is repealed.

SEC. 90. Section 5768 of the Welfare and Institutions Code is amended to read:

5768. (a) Notwithstanding any other provision of law, except as to requirements relating to fire and health, the department, in its discretion, may permit new programs to be developed and

implemented without complying with licensure requirements established pursuant to existing state law.

(b) Any program developed and implemented pursuant to subdivision (a) shall be reviewed at least once each six months, as determined by the department.

(c) The department may establish appropriate licensing requirements for such new programs upon a determination that such programs should be continued.

(d) After two years any program shall require a licensure category if it is to be continued. However, in the event that any agency other than the department is responsible for developing a licensure category and fails to do so within the two years, the program may continue to be developed and implemented pursuant to subdivisions (a) and (b) until such time that the licensure category is established.

SEC. 91. Section 5770 is added to the Welfare and Institutions Code, to read:

5770. Notwithstanding any other provision of law, the department may directly, or by contract, with any public or private agency, provide any of the services under this division when the director determines that the services are necessary to protect the public health, safety, or welfare.

SEC. 92. Chapter 5 (commencing with Section 5800) of Part 2 of Division 5 of the Welfare and Institutions Code is repealed.

SEC. 93. Section 14021 of the Welfare and Institutions Code is amended to read:

14021. Notwithstanding any other provision of this chapter, health care shall include the following mental health services:

(a) Mental health services provided by a county;

(b) Mental health services provided in a Short-Doyle community mental health service or in a community mental health center organized under the Federal Community Mental Health Centers Act of 1963. No amount shall be paid for that portion of the total costs of care and services in a federally funded community mental health center which may be compensated by the United States government under the Community Mental Health Centers Act of 1963. No amount shall be paid to a Short-Doyle community mental health service or a federally funded community mental health center unless the Short-Doyle community mental health service or the federally funded community mental health center participates in a county mental health plan;

(c) Outpatient drug abuse services under the jurisdiction of the Department of Alcohol and Drug Programs provided by a county provider certified under Medi-Cal or a private provider certified under Medi-Cal which has an approved contract with the county to provide covered drug abuse services.

(d) Inpatient hospital services in an institution for mental diseases to persons of all ages, provided that the institution for mental diseases is certified as a psychiatric hospital under Title XVIII of the federal Social Security Act and regulations issued thereunder.

Notwithstanding Section 14157, no money in the State Health Care Deposit Fund shall be expended for the purposes of this section unless the Legislature specifically appropriates money for the purposes of this section.

SEC. 93.5. Section 70.5 of this bill incorporates amendments to Section 5710.1 of the Welfare and Institutions Code proposed by both this bill and SB 2231. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, but this bill becomes operative first, (2) each bill amends Section 5710.1 of the Welfare and Institutions Code, and (3) this bill is enacted after SB 2231, in which case Section 5710.1 of the Welfare and Institutions Code, as amended by Section 70 of this bill, shall remain operative only until the operative date of SB 2231, at which time Section 70.5 of this bill shall become operative.

SEC. 94. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

SEC. 95. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and should go into immediate effect. The facts constituting the necessity are:

In order to assure quality mental health services in California by reducing unnecessary and burdensome administration and thereby maximizing funding for treatment programs, it is necessary that this act take effect immediately.

CHAPTER 1328

An act to amend Sections 11751.4, 11751.9, 11754, 11765, 11772, 11775, 11776, 11777, 11795, 11796.1, 11797, 11798, 11801, 11807, 11808, 11809.3, 11810.5, 11811, 11811.1, 11811.5, 11811.8, 11812, 11814, 11815.5, 11815.9, 11816, 11817, 11817.1, 11818, 11818.5, 11819, 11827, 11828, 11829, 11835, 11837, 11837.1, 11837.2, 11837.4, 11837.5, 11837.6, 11837.7, 11837.8, 11837.9, 11838.1, 11838.2, 11840, and 11841 of, to amend the heading of Part 1 (commencing with Section 11750) of Division 10.5 of, Article 4 (commencing with Section 11810) of Chapter 4 of Part 2 of Division 10.5 of, Article 1 (commencing with Section 11840) of Chapter 10 of Part 2 of Division 10.5 of, to amend and renumber the heading of Article 2 (commencing with Section 11841) of Chapter 10 of Part 2 of Division 10.5 of, to add Sections 11755, 11756, 11810.6, and 11814.5 to, and Article 2 (commencing with Section 11840.1) to Chapter 10 of Part 2 of Division 10.5 of, to repeal Sections 11751.6, 11751.7, 11751.8, 11753, 11770, 11771, 11806.5, 11815.3, and 11829.3 of, Article 2 (commencing with Section 11821) of Chapter 5 of Part 2 of

Division 10.5 of, the heading of Article 1 (commencing with Section 11835) of Chapter 8 of Part 2 of Division 10.5 of, and Article 2 (commencing with Section 11836) of Chapter 8 of Part 2 of Division 10.5 of, to repeal and add Sections 11786, 11787, 11810, 11815, 11817.8 and 11819.1 of, and Article 1 (commencing with Section 11825) of Chapter 6 and Chapter 7 (commencing with Section 11830) of Part 2 of Division 10.5 of, the Health and Safety Code, to amend Section 1463.16 of the Penal Code, to amend Section 23161 of the Vehicle Code, to amend Section 2626.1 of the Unemployment Insurance Code, and to amend Section 6 of Chapter 944 of the Statutes of 1978, relating to alcohol abuse programs, and making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 25, 1984.]

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

SECTION 1. The heading of Part 1 (commencing with Section 11750) of Division 10.5 of the Health and Safety Code is amended to read:

PART 1. CREATION OF DUTIES

SEC. 2. Section 11751.4 of the Health and Safety Code is amended to read:

11751.4. It is the intent of the Legislature to assure the integrity and separate identity of state alcohol and drug programs.

SEC. 3. Section 11751.6 of the Health and Safety Code is repealed.

SEC. 4. Section 11751.7 of the Health and Safety Code is repealed.

SEC. 5. Section 11751.8 of the Health and Safety Code is repealed.

SEC. 6. Section 11751.9 of the Health and Safety Code is amended to read:

11751.9. All officers or employees of the State Department of Alcohol and Drug Programs shall be appointed by the Director of Alcohol and Drug Programs.

SEC. 7. Section 11753 of the Health and Safety Code is repealed.

SEC. 8. Section 11754 of the Health and Safety Code is amended to read:

11754. (a) The department shall be the single state agency authorized to receive any federal funds payable directly to the state by the Alcohol, Drug Abuse, and Mental Health Administration to implement programs which provide services to alleviate the problems related to the inappropriate use of alcoholic beverages.

(b) The department shall be the single state agency authorized to receive any federal funds payable directly to the state by the Alcohol, Drug Abuse, and Mental Health Administration to implement programs which provide services to alleviate the problems related to the use of other drugs.

(c) The department may receive other federal funds and expend them pursuant to the provisions of this division, the Budget Act, or other statutes.

SEC. 9. Section 11755 is added to the Health and Safety Code, to read:

11755. The department shall do all of the following:

(a) Adopt regulations pursuant to Section 11152 of the Government Code.

(b) Employ administrative, technical, and other personnel as may be necessary for the performance of its powers and duties.

(c) Do or perform any of the acts which may be necessary, desirable, or proper to carry out the purpose of this part.

(d) Provide funds to counties for the planning and implementation of local programs to alleviate problems related to inappropriate alcohol and drug use.

(e) Review and approve or disapprove county alcohol program plans and county drug program plans submitted for state and federal funds allocated by the department.

(f) Provide for technical assistance and training to local alcohol and drug programs to assist in the planning and implementation of quality services. The department may charge a fee to cover the cost of providing technical assistance to alcohol and drug programs.

(g) Review research in, and serve as a resource to provide information relating to, alcohol and drug programs.

(h) In cooperation with the Department of Personnel Administration, encourage training in other state agencies to assist the agencies to recognize employee problems relating to inappropriate alcohol use or drug use which affect job performance and encourage the employees to seek appropriate services.

(i) Develop and implement a statewide plan to alleviate problems related to inappropriate alcohol use and to overcome the barriers to their solution and to develop and implement a statewide plan to alleviate problems related to inappropriate drug use and to overcome the barriers to their solution. These plans shall be revised annually. The State Advisory Board on Alcohol-Related Problems shall review and make recommendations to the department on the development of the statewide alcohol plan. the State Advisory Board on Drug Programs shall review and make recommendations to the department on the development of the statewide drug plan. In order to avoid duplication of efforts in developing statewide alcohol and drug plans, the department shall consult with the Office of Statewide Health Planning and Development and the Advisory Health Council to adopt a uniform format and policy for the development of the statewide alcohol plan and statewide drug plan to facilitate its incorporation into the state health plan.

(j) Assist and cooperate with the Office of Statewide Health Planning and Development and the Advisory Health Council in the drafting and adoption of the state health plan to assure inclusion of appropriate provisions relating to alcohol problems and drug

problems.

(k) In the same manner and subject to the same conditions as other state agencies, develop and submit annually to the Department of Finance a program budget for the state-funded alcohol program and the state-funded drug program which shall include expenditures proposed to be made under this division, and may include expenditures proposed to be made by any other state agency relating to alcohol or drug problems, pursuant to an interagency agreement with the department.

(*l*) Review and certify alcohol programs meeting state standards pursuant to Chapter 7 (commencing with Section 11830), and review and certify drug abuse treatment programs pursuant to Section 11994.

(m) Develop standards for assuring minimal statewide levels of service quality provided by alcohol and drug service programs.

(n) Review and license methadone treatment programs.

(o) Develop and implement, in partnership with the counties, alcohol and drug prevention strategies especially designed for youth.

SEC. 10. Section 11756 is added to the Health and Safety Code, to read:

11756. The department relative to the statewide alcohol program, in addition to the duties provided for in Section 11755, shall do all of the following:

(a) Cooperate with other governmental agencies and the private sector in establishing, conducting, and coordinating alcohol programs and projects pursuant to Chapter 2 (commencing with Section 11775).

(b) Cooperate with other state agencies to encourage appropriate health facilities to recognize, without discrimination, persons with alcohol problems who also require medical care and to provide them with adequate and appropriate services.

(c) Encourage counties to coordinate alcohol services, where appropriate, with county health and social service programs, or with regional health programs pursuant to Article 2 (commencing with Section 11821) of Chapter 5.

(d) Encourage the utilization, support, assistance, and dedication of interested persons in the community in order to increase the number of persons with alcohol problems who voluntarily seek appropriate services to alleviate those problems.

(e) Evaluate or require the evaluation, including the collection of appropriate and necessary information, of alcohol programs pursuant to Chapter 6 (commencing with Section 11825).

(f) Review and license multiple offender drinking driver programs.

(g) Perform all other duties specifically required pursuant to this part.

SEC. 11. Section 11765 of the Health and Safety Code is amended to read:

11765. (a) "County board of supervisors" includes county boards

of supervisors in the case of counties acting jointly.

(b) "Agency" means the Health and Welfare Agency.

(c) "Secretary" means the Secretary of the Health and Welfare Agency.

(d) "County alcohol program plan" or "program plan" means the county alcohol plan, including a budget, adopted by the board of supervisors pursuant to Chapter 4 (commencing with Section 11795).

(e) "Board" means the State Advisory Board established pursuant to Section 11780.

(f) "Advisory board" means the county advisory board on alcohol problems established pursuant to Section 11805.

(g) "Alcohol program administrator" means the county alcohol program administrator designated pursuant to Section 11800.

(h) "State alcohol program" includes all statewide alcohol projects administered by the department and all county alcohol programs funded under this part.

(i) "Division" means the Division of Alcohol Programs in the department.

(j) "Health systems agency" means the health planning agency established pursuant to federal legislation cited as Public Law 93-641 of 1974.

(k) "Alcohol problems" means problems of individuals, families, and the community which are related to inappropriate alcohol use, and includes conditions usually associated with the terms "alcoholism" and "alcohol abuse."

(*l*) "Problem drinker" means anyone who has a problem related to the consumption of alcoholic beverages whether of a periodic or continuing nature, including, but not limited to, persons referred to as "alcoholics", "alcohol abusers", and "drinking drivers." These problems may be evidenced by substantial impairment to the person's physical, mental, or social well-being which adversely effects his or her abilities to function in the community.

(m) "Alcohol service" means any service that is specifically and uniquely designed to encourage recovery from problem drinking and to alleviate or preclude alcohol problems in the individual, his or her family, and the community.

(n) "Alcohol program" means a collection of alcohol services which are coordinated to achieve the specified objectives of this part.

(o) "Multiple Offender Drinking Driver Program" or "Licensed Program" means an alcohol service which has been issued a valid license by the department to provide services pursuant to Chapter 9 (commencing with Section 11837).

SEC. 12. Section 11770 of the Health and Safety Code is repealed.

SEC. 13. Section 11771 of the Health and Safety Code is repealed.

SEC. 14. Section 11772 of the Health and Safety Code is amended to read:

11772. (a) The department may enter into contracts with public or private agencies or make grants necessary or incidental to the

performance of its duties and the execution of its powers, including contracts with public or private agencies and individuals, to pay them in advance or reimburse them for services provided to problem drinkers and their families and communities. The Legislature finds and declares that many of the activities required of the department which are necessary to carry out its duties under this part are unique to alcohol services and programs. Therefore, the Legislature directs the department to contract with public or private agencies or individuals to perform its duties whenever that expertise is available and appropriate to utilize.

(b) Notwithstanding any other provision of this part, the department may not contract directly for the provision of alcohol services except as follows:

(1) To provide referral and monitoring services for recipients of Supplemental Security Income in those counties that choose not to provide these services.

(2) For demonstration programs of limited duration and scope which, wherever possible, shall be administered through the counties and which are specifically authorized and funded by the Budget Act or other statutes.

(3) To provide supportive services, such as technical assistance, on a statewide basis, or management and evaluation studies to help assure more effective implementation of the provisions of this part.

(c) The Legislature strongly encourages all counties to apply for funds under this part because of the seriousness of alcohol problems in California and the necessity for affirmative governmental involvement to help alleviate alcohol problems. However, the Legislature has chosen not to mandate that counties provide those services and programs. In the absence of local community control of the services and programs, the state shall not intervene to operate directly or through contract services and programs which the elected county board of supervisors has chosen not to provide to its constituents.

SEC. 15. Section 11775 of the Health and Safety Code is amended to read:

11775. (a) Each year the department shall apply for federal block grant funds from the Alcohol, Drug Abuse, and Mental Health Administration and may expend those funds only upon appropriation of, and approval by, the Legislature pursuant to the Budget Act.

(b) Whenever the Alcohol, Drug Abuse, and Mental Health Administration conditions its allocation of funds to the department in a manner which would conflict with any provisions of this part, the department shall specifically describe the conflict in its application for federal funds.

SEC. 16. Section 11776 of the Health and Safety Code is amended to read:

11776. The department shall confer and cooperate with other state agencies whose responsibilities include alleviating the problems related to inappropriate alcohol use in order to maximize the state's

effectiveness and limited resources in these efforts. These agencies shall include, but are not limited to, the Departments of Alcoholic Beverage Control, Mental Health, Motor Vehicles, Social Services, Health Services, Developmental Services, Education, Corrections, the Youth Authority, Rehabilitation, Employment Development, and Industrial Relations, and the Office of Traffic Safety.

SEC. 17. Section 11777 of the Health and Safety Code is amended to read:

11777. The Legislature, subject to the Governor's approval, has the sole authority under Section 12 of Article IV of the California Constitution to appropriate any funds, including federal funds, to the department pursuant to the Budget Act. Each year the Legislature shall review the Governor's proposed budget for the department and conduct public hearings on the proposed use and distribution of federal block grant funds as required by Section 1915(b) of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35).

SEC. 18. Section 11786 of the Health and Safety Code is repealed.

SEC. 19. Section 11786 is added to the Health and Safety Code, to read:

11786. The department may enter into contracts for special studies and research to develop the information needed for formulating policies that will reduce the incidence of alcohol problems and alcoholism through promising and innovative approaches in prevention, intervention, and treatment.

SEC. 20. Section 11787 of the Health and Safety Code is repealed.

SEC. 21. Section 11787 is added to the Health and Safety Code, to read:

11787. The department may coordinate task forces and committees of subject-matter experts to assess and document successful practical applications suggested by research.

SEC. 22. Section 11795 of the Health and Safety Code is amended to read:

11795. (a) The board of supervisors of each county may apply to the department for funds for the purpose of alleviating problems in its county related to the inappropriate use of alcoholic beverages. The provisions of this part shall be applicable only to counties electing to apply for state or federal block grant funds allocated by the department under this part.

(b) The Legislature grants responsibility to the county to administer and coordinate all county alcohol programs funded under this part. County alcohol programs shall be held accountable to the board of supervisors and to the state for their effective implementation. The Legislature further grants the responsibility to the county to establish its own priorities for alcohol programs funded under the provisions of this part. However, each county shall allocate and expend no less than the federally required percentage of federal funds for prevention and early intervention activities as defined in this part.

SEC. 23. Section 11796.1 of the Health and Safety Code is

amended to read:

11796.1. Except as provided in subdivision (b) of Section 11812, nothing in this part shall prevent any city or combination of cities from financing and administering directly an alcohol program or providing an alcohol service by contracting with the county to provide and be reimbursed for alcohol services provided pursuant to the county alcohol program under Article 4 (commencing with Section 11810). In addition, where appropriate, any county may contract with a city, or combination of cities, to administer contracts with privately operated agencies to alleviate problems related to inappropriate alcohol use.

SEC. 24. Section 11797 of the Health and Safety Code is amended to read:

11797. Funds allocated to the county pursuant to this part shall be used exclusively for county alcohol services as identified in the county alcohol program plan, and shall be separately identified and accounted for.

SEC. 25. Section 11798 of the Health and Safety Code is amended to read:

11798. Counties that elect to apply for funds shall prepare and submit a county alcohol program plan which shall include a budget of all funds allocated to them by the department pursuant to this part, and shall report utilization of those funds in an annual expenditure report pursuant to Article 4 (commencing with Section 11810).

SEC. 26. Section 11801 of the Health and Safety Code is amended to read:

11801. The alcohol program administrator, acting through administrative channels designated pursuant to Section 11795, shall do all of the following:

(a) Coordinate and be responsible for the planning process, including preparation of the county alcohol program plan and budget, required pursuant to Article 4 (commencing with Section 11810).

(b) Recommend to the board of supervisors the provision of services, establishment of facilities, contracting for services or facilities, and other matters necessary or desirable in accomplishing the purposes of this part pursuant to the planning process described in Article 4 (commencing with Section 11810).

(c) Assure compliance with applicable laws relating to discrimination against any person because of race, creed, age, religion, sex, sexual preference, or disabling conditions.

(d) Provide reports and information periodically to the advisory board regarding the status of alcohol programs in the county and keep the advisory board informed regarding changes in relevant state, federal, and local laws or regulations or improvements in program design and services that may affect the county alcohol program.

(e) Be directly responsible for administration of all alcohol

program funds allocated to the county under this part and for administration of county operated programs and for coordination and monitoring of programs that have contracts with the county to provide alcohol services.

(f) Encourage the appropriate utilization of all other public and private alcoholism programs and services in the county in coordination with the alcohol programs funded pursuant to this part.

(g) Coordinate the activities of the county alcohol program with appropriate health planning agencies pursuant to Chapter 5 (commencing with Section 11820).

(h) Assure the evaluation of alcohol programs, including the collection of appropriate and necessary information, pursuant to Chapter 6 (commencing with Section 11825).

(i) Participate in the process to assure program quality in compliance with appropriate standards pursuant to Chapter 7 (commencing with Section 11830).

(j) Participate in the regulations process pursuant to Chapter 8 (commencing with Section 11835).

(k) Participate and represent the county in meetings of designated alcohol program administrators pursuant to Section 11811.5.

(*l*) Provide for the orientation of the members of the advisory board, including, but not limited to, the provision of information and materials in alcohol problems and programs, planning, procedures, and site-visits to local alcohol programs.

(m) Perform any other acts which may be necessary, desirable, or proper to carry out the purposes of this part.

SEC. 27. Section 11806.5 of the Health and Safety Code is repealed.

SEC. 27.5. Section 11807 of the Health and Safety Code is amended to read:

11807. (a) Except as permitted under subdivision (c) of Section 11805, the advisory board shall not include any person, or his or her spouse, who is any of the following:

(1) A member of a board of directors or advisory body or employee of any county-operated or county contract provider of alcohol services.

(2) A member of any advisory body, or a person who holds any similar position or title on a compensated or noncompensated basis in a program which seeks or possesses a license pursuant to Chapter 9 (commencing with Section 11837).

(3) A direct recipient of any state funds allocated under this part pursuant to a contract with the department, which shall include compensation for contracted services or membership on an advisory body or board of directors of the recipient agency.

(4) A member of the board of supervisors or a person on the staff of a member of the board of supervisors.

(5) A county employee of the health-related agency or department designated pursuant to Section 11800.

(b) The board of supervisors may, by resolution, designate further categories of persons who may not serve on the board, provided that the prohibitions are consistent with the intent of this section. It is the intent of the Legislature in authorizing the board of supervisors to designate the further categories that the integrity of, and the community's confidence in, the advisory board be maintained, and that the advisory board consist of persons without any economic interests in any county-operated or county contract providers of alcohol services.

(c) In the event that prior to the expiration of his or her term, a member ceases to retain the status which qualified him or her for appointment to the advisory board, his or her membership on the advisory board shall terminate and there shall be a vacancy on the advisory board to be filled by the board of supervisors.

(d) The members of the advisory board may be removed for cause pursuant to standards adopted by the advisory board which are consistent with the provisions of this article and which are approved by the board of supervisors.

(e) The department shall assure that the requirements of this section are met by each member of the board and shall deny payments to any county that does not comply with these provisions.

SEC. 28. Section 11808 of the Health and Safety Code is amended to read:

11808. (a) The advisory board shall meet at least once every other month and may meet at such other times as may be deemed necessary by the chair or alcohol program administrator. The members of the advisory board shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with their duties under this article. However, the members may also receive compensation out of county funds at the option of the board of supervisors.

(b) All meetings of the advisory board shall be open to the public and shall be subject to the provisions of Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, relating to meetings of local agencies.

SEC. 29. Section 11809.3 of the Health and Safety Code is amended to read:

11809.3. In the event the alcohol program administrator and advisory board disagree regarding the development of, or implementation of, any element of the county grant application, or any related matter, the advisory board may designate a representative to report to, or make a presentation before, the board of supervisors relating to the disagreement.

SEC. 30. The heading of Article 4 (commencing with Section 11810) of Chapter 4 of Part 2 of Division 10.5 of the Health and Safety Code is amended to read:

Article 4. County Alcohol Program Plan

SEC. 31. Section 11810 of the Health and Safety Code is repealed.

SEC. 32. Section 11810 is added to the Health and Safety Code, to read:

11810. It is the intent of the Legislature to provide maximum flexibility in the use of federal and state alcohol program funds. County government is therefore given broad authority in determining the methods for encouragement of citizen participation, the scope of problem analysis, and the methods of planning for alcohol program services.

SEC. 33. Section 11810.5 of the Health and Safety Code is amended to read:

11810.5. (a) Each year, the county alcohol program administrator shall coordinate the planning process described in this section in cooperation with the alcohol advisory board and interested persons in the community. The alcohol program administrator, in cooperation with the advisory board, shall prepare a written description of the process to be followed in the development of the county alcohol program plan. The alcohol program administrator shall include the description in his or her submission of the program plan to the board of supervisors. The process shall provide for a reasonable opportunity for input from interested groups and individuals.

(b) Whenever appropriate, the county shall encourage coordination with the planning processes for other health programs to assure a unified planning process for all health programs, including the county alcohol program plan. However, this unified planning shall not delay or interfere with any of the procedures or applications for funding under this part.

(c) The alcohol program administrator, in cooperation with the advisory board, in preparing the program plan, shall do all of the following:

(1) Identify the major problems in the county related to the inappropriate use of alcohol and identify specific populations affected by these problems, including, but not limited to, women, adolescents, ethnic minorities, the elderly, and the disabled.

(2) Determine the specific objectives the county expects to achieve in alleviating these problems.

(3) Determine the programs and services required to achieve these objectives.

(4) Determine the evaluation methods that will be used by the county and providers of services funded under this part to measure achievement of the objectives utilizing the methods described in Article 2 (commencing with Section 11827) of Chapter 6.

(5) Include a budget for providing programs and services identified in the program plan. The budget shall identify by source and amount, including governmental funds, fees, contributions, grants, and other revenues, the funds available to the county for

those purposes. The budget shall provide estimates of expenditures for each provider of services and for the county's administrative expenses necessary to implement the county alcohol program plan.

SEC. 34. Section 11810.6 is added to the Health and Safety Code, to read:

11810.6. The county alcohol program administrator, in accordance with the planning process approved by the board of supervisors, shall develop the county alcohol program plan. The county alcohol program plan shall contain all of the following:

(a) A description of the proposed uses of alcohol funds which addresses all of the following:

(1) A statement of the goals and objectives of the county alcohol program.

(2) A description of the alcohol programs, activities and services supported by this plan, and characteristics of the individuals to be served.

(3) Criteria and methods for the distribution of funds, including a description of the alcohol service needs of women, adolescents, ethnic minorities, the elderly, the disabled, and any other specific populations, a plan for how these needs will be met, both if new funds are available and if no new funds are available, and the time span within which the needs will be met.

(4) Criteria to evaluate the effective performance of programs and services supported by this program plan.

(5) Beginning in fiscal year 1985–86, a description of how the county has met the goals, objectives, and needs in the use of funds for the previous year as identified in that year's program plan.

(6) That the federally required percentage of the federal portion of grant funds shall be for prevention and early intervention services.

(b) Certification of compliance with all of the following requirements:

(1) The county shall conduct a public hearing on the proposed use and distribution of funds and any changes shall be made public within the county on a timely basis and in a manner which facilitates comments from interested persons.

(2) The county shall administer the county alcohol program in accordance with this division, and all other applicable state and federal requirements, including civil rights.

(3) The review of the planning process of the program plan by the county alcohol advisory board and approval by the board of supervisors.

(4) Agreement to permit, and cooperate with, specified state reviews and audits.

(5) Monitoring of all direct services programs receiving state or federal funds or funds available pursuant to Section 1463.16 of the Penal Code.

(6) Agreement to any additional assurances which may become necessary as a result of changes in laws, regulations, or procedures.

(c) Budget information on the programs, activities, and services

supported by this program plan and assurance that its submission satisfies the program plan requirements.

SEC. 35. Section 11811 of the Health and Safety Code is amended to read:

11811. Counties shall have broad discretion in the choice of services they utilize to alleviate the alcohol problems of specific population groups and the community identified pursuant to the planning process described in Section 11810.5. Those services shall include, but need not be limited to, both of the following broad categories:

(a) Direct services to both of the following:

(1) Problem drinkers.

(2) The families of problem drinkers.

(b) Indirect services, which include activities frequently referred to as "prevention" and "early intervention." "Prevention" means activities and processes designed to reduce or minimize the incidence of new alcohol problems and negative consequences of drinking. "Early intervention" means activities designed to provide only identification and appropriate service for alcohol problems prior to the appearance of major problems.

SEC. 36. Section 11811.1 of the Health and Safety Code is amended to read:

11811.1. The major purpose of indirect services includes, but is not limited to, all of the following:

(a) To facilitate positive change in community and individual understanding, values, attitudes, environmental factors, and behavior concerning alcohol and its inappropriate use.

(b) To reduce the likelihood of the inappropriate use of alcohol by developing and implementing public policies designed to reduce or limit alcohol consumption.

(c) To lessen the stigmatization of persons who seek help for problems related to inappropriate alcohol use.

(d) To provide information so that the public may make informed personal and public policy decisions regarding the inappropriate use and nonuse of alcoholic beverages.

(e) To enlighten the "helping professions" to recognize persons with alcohol problems and to offer them appropriate services.

(f) To encourage persons to seek early help for their alcohol problems.

The Legislature recognizes that the effective provision of indirect services will result in an increased demand upon, and utilization of, existing direct services to problem drinkers and their families. However, the Legislature believes that provision of effective indirect services over the next decade will result in saving taxpayers funds which might otherwise have to be expended for higher health and safety costs.

SEC. 37. Section 11811.5 of the Health and Safety Code is amended to read:

11811.5. A county may also utilize funds for the following:

(a) Planning, program development, and administration by the county. The department shall establish uniform definitions of the elements of county alcohol program administration and shall set the minimum and maximum levels of administrative services, taking into account the total funds expended pursuant to the county alcohol program plan.

(b) In conducting planning, evaluation, and research activities to develop and implement the county alcohol program, counties may contract with appropriate public or private agencies.

(c) Actual and necessary expenses incurred by the alcohol program administrator relating to attendance at not more than four meetings each year of such administrators and reasonable dues for any related activities and meetings. Each administrator of a county which applies for funds under this part shall attend each such quarterly meeting, unless a waiver is provided for by the department.

SEC. 38. Section 11811.8 of the Health and Safety Code is amended to read:

11811.8. The following costs shall not be eligible for state funding pursuant to this part:

(a) The costs involved in a peace officer bringing a person in for 72-hour treatment and evaluation.

(b) The costs of court proceedings or court-ordered evaluation pursuant to Article 3 (commencing with Section 5225) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code, and the apprehension of the person ordered to evaluation when necessary.

(c) The costs of court proceedings in cases of appeal on 14-day intensive treatment.

(d) The costs of legal proceedings in conservatorship.

(e) The court costs in postcertification proceedings.

(f) The cost of providing a public defender or other court-appointed attorneys in proceedings for those unable to afford this assistance.

SEC. 39. Section 11812 of the Health and Safety Code is amended to read:

11812. The following conditions apply to county expenditures of state funds pursuant to this part:

(a) Where the services specified in the approved program plan are provided pursuant to other general health or social programs, only that portion of the services dealing with alcohol problems may be financed under this part.

(b) Each county shall utilize available privately operated alcohol programs and services in the county prior to utilizing new county-operated programs and services or city-operated programs and services pursuant to Section 11796.1, when the available privately operated programs and services are as favorable in quality and cost as are those operated by the county or city. When the privately operated programs and services are not available, the county shall make a reasonable effort to encourage the development

of such privately operated programs and services prior to developing county-operated or city-operated programs and services. The county alcohol program administrator shall demonstrate to the board of supervisors, and to the department, prior to development of any new program or service, that reasonable efforts have been made to comply with this section. All such available local public or private programs and services, where appropriate, shall be utilized prior to using services provided by hospitals.

(c) All personal information and records obtained by the county, any program which has a contract with the county, or the department pursuant to this section and Section 11783 are confidential and may be disclosed only in those instances designated in Section 5328 of the Welfare and Institutions Code.

(1) Any person may bring an action against an individual who has willingly and knowingly released confidential information or records concerning him or her in violation of this section, for the greater of the following amounts:

(A) Five hundred dollars ($500).

(B) Three times the amount of actual damages, if any, sustained by the plaintiff.

(2) Any person may, in accordance with Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, bring an action to enjoin the release of confidential information or records in violation of this chapter, and may in the same action seek damages as provided in this section.

It is not a prerequisite to an action under this section that the plaintiff suffer or be threatened with actual damages.

(d) The department may require that each county and any public or private provider of alcohol services which receives any state funds under this part provide any information requested by the department relating to any application for or receipt of federal or other nonstate funds, including fees, donations, grants, and other revenues, for alcohol services provided by these agencies.

SEC. 40. Section 11814 of the Health and Safety Code is amended to read:

11814. (a) The department shall estimate an allocation of state and federal funds available for each county to implement the approved program plan. In making allocations, the department shall base its allocations on the population of each county. However, the department shall assure that each small population county receives a minimum amount of funds to provide adequate alcohol services. The department may take into account other factors in making the allocations if the department finds that the factors relate to the level of alcohol problems in the county. No later than 45 days after introduction of the Budget Bill, the department shall notify each county regarding its preliminary allocation under this division, pending enactment of the Budget Bill. The 1984–85 fiscal year shall establish the base funding for the county alcohol and drug allocation for local programs. Beginning with the 1985–86 fiscal year,

cost-of-living adjustments, if granted, shall be considered as tied to the base allocation established in the 1984–85 fiscal year, plus any subsequent cost-of-living adjustments.

(b) A county with a population of 200,000 or less may shift funds between alcohol and drug programs at its discretion. These shifts shall be reflected in the county alcohol and county drug program plans. Prior to the county shifting funds between alcohol and drug programs, approval shall be requested and obtained by the county from the director. The request and approval shall be in writing. The request shall include a description of the process and procedures used by the county, including public hearings, in determining the need for the funding shift and shall be accompanied by resolutions of support from the county advisory board on alcohol problems and the county advisory board on drug programs. The request shall be submitted as part of the proposed annual county alcohol program plan submitted to the department by the board of supervisors pursuant to Section 11815.

(c) Notwithstanding any other provision of this section, the director may reduce funding below the base year amounts of counties which underspend their allocations by more than 5 percent for two consecutive years. Any reduction shall be limited to the difference between 5 percent of the allocation and the total amount unspent. The amounts underspent shall be based on the most recent cost reports.

SEC. 41. Section 11814.5 is added to the Health and Safety Code, to read:

11814.5. Two million five hundred thousand dollars ($2,500,000) is appropriated from the General Fund to the State Department of Alcohol and Drug Programs to be allocated on a per capita basis or by any other formula that is determined by the department as necessary to carry out the purposes of Division 10.5 (commencing with Section 11750) relating to alcohol, to each county to offset its administrative costs in assuming realignment of state and county functions relating to alcohol programs as provided in the act that added this section to this code and for alcohol programs of high need as determined by the county. However, only a county with a population of 200,000 or less may, at its discretion, use all or a portion of these funds for either alcohol or drug services as provided for in this division if the county fulfills the requirements contained in subdivision (b) of Section 11814.

SEC. 42. Section 11815 of the Health and Safety Code is repealed.

SEC. 43. Section 11815 is added to the Health and Safety Code, to read:

11815. On or before March 15 or within 45 days after issuance of the preliminary allocation, whichever is later, of each year, the board of supervisors of each county may adopt and submit to the director in the form and according to the procedures specified by the director, an annual county alcohol program plan for the next fiscal year for alcohol services in the county or counties. The final program

plan shall be submitted on or before September 15 of each year. The purpose of a county alcohol program plan shall be to provide the basis for reimbursement pursuant to this division and to coordinate services as specified in this chapter in such a manner as to avoid duplication, fragmentation of services, and unnecessary expenditures.

Each subsequent year, the county alcohol program plan shall provide for the most appropriate and economical use of all existing public and private agencies, licensed private institutions, and personnel. Counties with populations of 200,000 or less may submit a combined alcohol program plan and drug program program plan which shall include a separate alcohol and a separate drug program budget.

The department, after consultation with county alcohol program administrators, shall develop standard forms to be used by the counties in the submission of the county alcohol program plan. The forms shall include terms and conditions relative to county compliance with applicable laws, regulations, standards, and guidelines.

SEC. 44. Section 11815.3 of the Health and Safety Code is repealed.

SEC. 45. Section 11815.5 of the Health and Safety Code is amended to read:

11815.5. If the county desires to redirect any funds allocated by the department from the purposes identified in the county alcohol program plan previously submitted to the department, the county may amend the program plan and submit it to the department for approval or disapproval pursuant to this article.

SEC. 46. Section 11815.9 of the Health and Safety Code is amended to read:

11815.9. The department, after consultation with county alcohol program administrators, shall specify forms and procedures for the preparation, submission, and amendment of the county alcohol program plan.

SEC. 47. Section 11816 of the Health and Safety Code is amended to read:

11816. The department shall review and approve or disapprove each county alcohol program plan. The approval or disapproval shall be subject to the amount of funds appropriated to the department pursuant to the Budget Act or other statute for that fiscal year.

In reviewing the county alcohol program plan, the department may disapprove any funds to implement the program plan, or any part thereof, for any of the following reasons:

(a) The county has not properly implemented the planning process pursuant to the provisions of this part.

(b) The content of the program plan does not conform to Section 11810.6 and subdivision (b) of Section 11814.

(c) The program plan violates any federal or state laws relating to discrimination against any person because of race, creed, age,

religion, sex, sexual preference, or disabling condition. In these cases, the department shall cite the applicable law and explain the legal basis for the violation.

(d) The county does not provide for adequate administration of the county alcohol program.

(e) Approved services do not comply with the reasonable expenditure or program regulations adopted by the department.

(f) Noncompliance with the provisions of this part.

(g) A county has not properly described nor implemented its plan for how the alcohol service needs of women, adolescents, ethnic minorities, the elderly, the disabled, and any other specific populations are met.

SEC. 48. Section 11817 of the Health and Safety Code is amended to read:

11817. Upon approval by both parties, the approved county alcohol program plan shall be deemed to be a contract between the state and county. The county alcohol program plan shall not be subject to review pursuant to Section 14780 of the Government Code.

SEC. 49. Section 11817.1 of the Health and Safety Code is amended to read:

11817.1. The department may reallocate among counties any savings which occur during the fiscal year in programs or services or any allocations either not applied for by a county or not in compliance with the provisions of this part. Reallocations may be made to counties by amendment to their county alcohol program plans.

SEC. 50. Section 11817.8 of the Health and Safety Code is repealed.

SEC. 51. Section 11817.8 is added to the Health and Safety Code, to read:

11817.8. (a) The department shall annually audit the expenditures of any organization funded, in whole or in part, with funds administered by the department. The audits shall be in accordance with the Annual Audit Plan approved pursuant to Section 53135 of the Government Code. In addition, the department may audit the source and application of funds collected by counties pursuant to Section 1463.16 of the Penal Code.

(b) Counties may audit the expenditures of organizations funded in whole or in part with funds administered by the department.

(c) Counties shall repay to the department amounts of state and federal funds found, as a result of an audit, not to have been expended in accordance with the requirements set forth in this part, federal block grant law, (PL 97-35), federal or state regulations pertaining to alcoholism or drug abuse services, and the conditions set forth in any contract or interagency agreement. For organizations or services funded by any combination of state, federal, or other public and private funds, where a clear audit trail which shows the source and application of these funds, is not maintained,

repayment shall be determined by prorating audit findings between each funding source.

(d) For those audits conducted by the department, the director shall establish, administratively, policies and procedures for the resolution of disputed audit findings. The department shall consult with county alcohol program administrators when proposing changes in the procedures for the resolution of disputed audits findings.

(e) There is hereby established in the State Treasury an Audit Repayment Trust Fund. All undisputed repayments of state funds made pursuant to subdivision (c) and all repayments of state funds resulting from audit resolution procedures established pursuant to subdivision (d) shall be deposited in this fund. The money in the fund shall be available when appropriated by the Legislature.

(f) The department may deny or withhold payments or advances of funds to counties if it finds, by audit or otherwise, that a program, the county planning process, or the county alcohol program plan or any part thereof, is not in compliance with the provisions of this part, or if the department determines that the county is not following its approved county alcohol program plan.

(g) Notwithstanding subdivision (a) of Section 53134 of the Government Code, audits performed pursuant to this section shall be conducted by qualified state or local government auditors or independent public accountants in accordance with the financial and compliance requirements of Federal Standards for Audit of Governmental Organizations, Programs, Activities and Functions. These audits shall be completed no later than six months after completion of the audit fieldwork.

SEC. 52. Section 11818 of the Health and Safety Code is amended to read:

11818. (a) Expenditures made by counties and contract providers which may be reimbursed from funds under this part shall include expenditures for personnel, facilities, supplies, maintenance, utilities, and management services which are necessary to the provision of direct and indirect services specified in this article. The expenditures for facilities shall be determined through rent or depreciation as established in the state's uniform accounting manual, disregarding depreciation on such a facility to the extent it was financed by state funds under this part, and such other expenditures as may be approved by the director. Reimbursement shall not be made for expenditures for the purchase or construction of buildings, except for such equipment items and remodeling expenses as may be provided for in regulations, or for expenditures for purposes for which state reimbursement is claimed under any other provision of law.

(b) The cost of services specified in the county alcohol program plan shall be actual costs as determined with standard accounting practices or a negotiated rate. Negotiated rate is a specific and fixed dollar rate for a specified unit of service provided. Negotiated rates

may be used as the cost of services only between the county and private providers. The negotiated rate shall be approved by the county prior to commencing services for reimbursement and the rate shall be based upon the projected cost of providing the services and projected revenues realized as a result of providing the services. The provider shall make available to the county information on prior years' actual cost of providing the services and actual revenues where the information is available.

SEC. 53. Section 11818.5 of the Health and Safety Code is amended to read:

11818.5. (a) Counties shall submit reports of expenditures of funds allocated by the department pursuant to this part after each fiscal year.

(b) Each county shall be responsible for reviewing its contracts with providers of services and the department may audit these contracts. The reports shall be reviewed by the department and interim settlements of claims shall be made expeditiously with each county. Final settlement shall be made at the time of audit, which shall be completed within three years of the date the report of expenditures was accepted for interim settlement by the department. If the audit is not completed within three years, the interim settlement shall be considered as the final settlement.

(c) Counties shall report estimated numbers and characteristics of clients by service in the annual county alcohol program plan and shall report actual numbers and characteristics of clients served by service with the annual report of expenditure. The department, after consultation with county alcohol program administrators, shall specify forms and procedures to be followed in reporting this information. The fiscal reporting system established pursuant to this section shall supersede the requirements of paragraph (2) of subdivision (b) of Section 16366.7 of the Government Code for a quarterly fiscal reporting system.

SEC. 54. Section 11819 of the Health and Safety Code is amended to read:

11819. The Legislature recognizes that alcohol programs may provide a variety of services described in this part which will vary, depending on the needs of the communities which the programs serve. In devising a system to assure that counties have expended their funds pursuant to their approved program plans and budgets, the department shall take into account the flexibility that counties shall have in the provision of services and the changing nature of alcohol programs responding to the community's needs.

The department shall maintain a reporting system to assure that counties have budgeted and expended their funds pursuant to their approved county alcohol program plans.

SEC. 55. Section 11819.1 of the Health and Safety Code is repealed.

SEC. 55.5. Section 11819.1 is added to the Health and Safety Code, to read:

11819.1. The Legislature recognizes the need for increased potential for coordination between county alcohol programs and local health system agencies established pursuant to Public Law 93-641. Therefore, the Legislature encourages a harmonious working relationship between local health system agencies and county alcohol programs.

SEC. 56. Article 2 (commencing with Section 11821) of Chapter 5 of Part 2 of Division 10.5 of the Health and Safety Code is repealed.

SEC. 57. Article 1 (commencing with Section 11825) of Chapter 6 of Part 2 of Division 10.5 of the Health and Safety Code is repealed.

SEC. 58. Article 1 (commencing with Section 11825) is added to Chapter 6 of Part 2 of Division 10.5 of the Health and Safety Code, to read:

Article 1. Statewide Evaluation

11825. The department may establish reasonable criteria to evaluate the performance of programs and services which are described in the program plan.

11826. The department may do all of the following:

(a) Review and conduct evaluation studies of service delivery to clients in programs receiving state allocated funds.

(b) Conduct investigative reporting.

(c) Disseminate evaluation studies, reports, articles, and other reference documents.

(d) Evaluate the administration of county alcohol programs to determine whether the county provides for adequate administration of the county alcohol program.

SEC. 59. Section 11827 of the Health and Safety Code is amended to read:

11827. The Legislature recognizes that local program effectiveness may be evaluated in a variety of ways, but should reflect the needs and priorities of the local community and attempt to measure the achievement of objectives determined through the planning process described in this part. The Legislature further recognizes that the conducting of these evaluations is essential to holding county alcohol programs accountable for their use of state funds and increasing program effectiveness. The Legislature recognizes the beneficial results of the local evaluation process to those participating in this process, as described in the county alcohol program plan.

The Legislature desires to encourage experimentation and diversity in the methods utilized by counties to evaluate the county alcohol programs' achievement of their objectives, including, but not limited to, evaluations of individuals' progress, changes in utilization rates, changes in community attitudes, and measurement of specific programmatic goals in order to advance our knowledge about the effectiveness of alcohol programs in alleviating alcohol problems.

SEC. 60. Section 11828 of the Health and Safety Code is amended

to read:

11828. Each county shall assure the evaluation of all state-funded programs to determine whether they have achieved their objectives as determined in the planning process. In addition, recognizing the difficulty and expense of conducting effective county alcohol program evaluation, the department may assist counties in developing evaluation designs for implementation by counties which may measure progress of individual problem drinkers, changes in community attitudes toward inappropriate alcohol use and problems, changes in the incidence and prevalence of alcohol problems within the county, or other objectives identified in the planning process. The department, in cooperation with counties that choose to participate, may assist and fund counties to implement the evaluation designs developed. Counties may contract with public or private agencies and utilize funds allocated under this part for purposes of conducting the evaluations.

SEC. 61. Section 11829 of the Health and Safety Code is amended to read:

11829. The department may disseminate information about the evaluation projects to all counties and interested persons throughout the state in order to advance the knowledge of the field about these evaluation methodologies.

SEC. 62. Section 11829.3 of the Health and Safety Code is repealed.

SEC. 63. Chapter 7 (commencing with Section 11830) of Part 2 of Division 10.5 of the Health and Safety Code is repealed.

SEC. 64. Chapter 7 (commencing with Section 11830) is added to Part 2 of Division 10.5 of the Health and Safety Code, to read:

CHAPTER 7. QUALITY ASSURANCE

11830. In order to assure quality assurance of alcohol programs and expand the availability of funding resources, the department shall implement a program certification procedure for direct services funded under this part. The department, after consultation with the state advisory board, county alcohol program administrators, and other interested organizations and individuals, shall develop standards and regulations for the direct services describing the minimal level of service quality required of the service providers to qualify for and obtain state certification. The standards shall be voluntary until adopted as regulations, except that, notwithstanding Section 11347.5 of the Government Code, in order for a direct service provider to be eligible for funds pursuant to Section 1463.16 of the Penal Code, the provider shall have a valid certificate issued by the department under this chapter, whether or not the standards have been promulgated as regulations.

11831. The department may charge a reasonable fee as the department deems necessary for the certification or renewal certification of a program which voluntarily requests the

certification. The fee shall be set at a level sufficient to cover administrative costs of the program certification process incurred by the department. In calculating the administrative costs, the department shall include staff salaries and benefits, related travel costs, and state operational and administrative costs.

11832. The department may contract with private individuals or agencies to provide technical assistance and training to qualify programs for state certification.

11833. The department shall have the sole authority in state government to determine the qualifications, including the appropriate skills, education, training, and experience of personnel working within alcohol programs funded under this part.

11834. The department shall encourage the development of educational courses that provide core knowledge concerning alcohol problems and programs to personnel working within alcohol programs.

SEC. 65. The heading of Article 1 (commencing with Section 11835) of Chapter 8 of Part 2 of Division 10.5 of the Health and Safety Code is repealed.

SEC. 65.5. Section 11835 of the Health and Safety Code is amended to read:

11835. (a) The purposes of any regulations adopted by the department shall be to implement, interpret, or make specific the provisions of this part and shall not exceed the authority granted to the department pursuant to this part. To the extent possible, the regulations shall be written in clear and concise language and adopted only when necessary to further the purposes of this part.

(b) (1) The department shall present to the state advisory board at a meeting of the board the justification for considering regulations prior to the drafting and adoption of the specified regulations. Subsequent to the presentation to, and discussion with, the board, the department shall decide whether to proceed with the drafting and adoption of the regulations.

(2) Prior to adoption of regulations, the department shall consult with county alcohol program administrators and may consult with any other appropriate persons relating to the proposed regulations.

(3) If an absolute majority of the designated county alcohol program administrators, who represent counties which have submitted county alcohol program plans, vote at a public meeting called by the department, for which 45 days' advance notice shall be given by the department, to reject the proposed regulations, the department shall refer the matter for a decision to a committee composed of five persons, consisting of a representative of the state advisory board, a representative of the alcohol administrators, the director, the secretary, and one designee of the secretary. The decision shall be made by a majority vote of this committee at a public meeting convened by the department. Upon a majority vote of the committee recommending adoption of the proposed regulations, the department may then adopt them. Upon a majority

vote recommending that the department not adopt the proposed regulations, the department shall then consult again with the county administrators and advisory board and resubmit the proposed regulations to the administrators for a vote pursuant to this subdivision.

(4) In the voting process described in paragraph (3), no proxies shall be allowed nor may anyone other than the designated county alcohol program administrator, representative of the state advisory board, director, secretary, and secretary's designee vote at the meetings.

SEC. 65.6. Article 2 (commencing with Section 11836) of Chapter 8 of Part 2 of Division 10.5 of the Health and Safety Code is repealed.

SEC. 66. Section 11837 of the Health and Safety Code is amended to read:

11837. (a) Pursuant to the provisions of law relating to suspension of a person's privilege to operate a motor vehicle upon conviction for driving while under the influence of an alcoholic beverage or under the combined influence of an alcoholic beverage and any drug, as set forth in paragraph (3) or (4) of subdivision (a) of Section 13352 of the Vehicle Code, the Department of Motor Vehicles shall restrict the driving privilege pursuant to Section 13352.5 of the Vehicle Code, if the court has notified the department pursuant to Section 13352.5 of the Vehicle Code that the person convicted of that offense has consented to participate for at least one year in a program designed to offer alcohol services to problem drinkers that is licensed pursuant to this chapter.

(b) In determining whether to refer such a person to a licensed program, the court may consider any relevant information about the person made available pursuant to a presentence investigation, which is permitted but not required under Section 23205 of the Vehicle Code, or other screening procedure. No such information may be furnished, however, by any person who also provides services in a privately operated, licensed program or who has any direct interest in a privately operated, licensed program. In addition, the court shall obtain from the Department of Motor Vehicles a copy of the person's driving record to determine whether the person is eligible to participate in a licensed program pursuant to this chapter.

(c) The court may, subject to Sections 11837.3 and 11838.2 and as a condition of probation, refer a person to a licensed program, even though the person's privilege to operate a motor vehicle is restricted, suspended, or revoked.

(d) As used in this chapter, "program" means a program which has been recommended by the county board of supervisors to the department and possesses a valid license issued by the department.

SEC. 67. Section 11837.1 of the Health and Safety Code is amended to read:

11837.1. (a) In utilizing any program defined in subdivision (d) of Section 11837, the court shall require periodic reports concerning the performance of each person referred to and participating in a

program. The program shall also provide the court, the Department of Motor Vehicles, and the person referred to and participating in a program, with an immediate report of any failure of the person to comply with the program's rules and policies. If, at any time after entry into or while participating in a program, a participant fails to comply with the rules and policies of the program, and that fact is reported, the Department of Motor Vehicles shall revoke or suspend the privilege of that person to operate a motor vehicle for the period prescribed by law in accordance with Section 13352.5 of the Vehicle Code, except as otherwise provided in this section. The Department of Motor Vehicles shall notify the person and the court of its intended action and shall inform the person of the opportunity to be reinstated in the program and to avoid suspension of the driving privilege.

(b) Notwithstanding subdivision (a), the Department of Motor Vehicles shall not suspend the driving privilege pursuant to subdivision (a) if the court, upon the petition of the person, determines that the person should be reinstated in the program. The determination by the court shall be made within 45 days of the notice from the department of the intended action or such additional time, not to exceed an additional 45 days, for the determination as is required, ordered, and transmitted to the Department of Motor Vehicles by the court, which additional time is not caused by any action or failure to act by the person. Upon timely presentation by the person to the Department of Motor Vehicles of evidence satisfactory to the Department of Motor Vehicles that the court of jurisdiction has consented to the person's reinstatement in the program and that the person is currently participating in the program, the Department of Motor Vehicles shall continue in effect the restriction of the driving privilege prescribed by Section 13352.5 of the Vehicle Code unless the person has previously been reinstated in the program on two or more prior occasions, in which case the department shall suspend or revoke the driving privilege for the time prescribed in paragraph (3) or (4) of subdivision (a) of Section 13352 of the Vehicle Code. If the court fails to grant the person's petition for reinstatement in the program, the court shall suspend the person's driving privilege until the time the person's driving privilege is suspended or revoked by the Department of Motor Vehicles pursuant to subdivision (d) of Section 13352.5 of the Vehicle Code.

(c) If, at any time after referral to or while participating in a program, a participant refuses, for any reason, to consent to a chemical test that he or she is required to submit to pursuant to Section 13353 of the Vehicle Code, his or her participation in the program shall be terminated and the Department of Motor Vehicles shall immediately suspend or revoke his or her privilege to operate a motor vehicle for the period prescribed in Section 13352 of the Vehicle Code, according to the offense for which he or she was convicted immediately prior to referral to the program. The period of suspension or revocation shall be in addition to the period of

suspension imposed by the Department of Motor Vehicles pursuant to Section 13353 of the Vehicle Code.

(d) In the event the department withdraws the license of a program, the department shall immediately notify the Department of Motor Vehicles of those persons who do not commence participation in a licensed program within 21 days from the date of the withdrawal of the license of the program in which the persons were previously participating. The Department of Motor Vehicles shall suspend or revoke, for the period prescribed by law, the privilege to operate a motor vehicle of each of these persons.

SEC. 68. Section 11837.2 of the Health and Safety Code is amended to read:

11837.2. (a) The court may, subject to Section 11838.2, refer persons only to licensed programs. Subject to these provisions, a person is eligible to participate in the program if it is operating in (1) the county where the person is convicted, or (2) the county where the person resides, or (3) a county that has an agreement with such person's county of residence pursuant to Section 11851, or (4) a county to which a person may request transfer pursuant to subdivision (d). If the person cannot be referred to a licensed program pursuant to this section, Section 13352 of the Vehicle Code applies.

(b) Subject to the provisions of Section 11838.2, if a person has consented to participate in a licensed program and the county where the person is convicted is the same county in which the person resides, the court may order the person to participate in a licensed program within such county or, if such county does not have a licensed program, the court may order such person to participate in such program within another county, pursuant to the provisions of Section 11838.

(c) Subject to the provisions of Section 11838.2, if a person has consented to participate in a licensed program in the county in which such person resides or in a county in which such person's county of residence has an agreement pursuant to Section 11837, and the county where such person is convicted is not the county where such person resides, and if the court grants such person summary probation, the court may order the person to participate in a licensed program in such county. In lieu of summary probation, the court may utilize the probation officer to implement the orders of the court. If the county in which such person resides does not have a licensed program or an agreement with another county pursuant to Section 11838 and such person consents, the court may order such person to participate in a licensed program within the county where such person is convicted, or a county in which such county has an agreement pursuant to Section 11838.

(d) Except as otherwise provided in subdivision (e), subsequent to a person's commencement of participation in a program, such person may request transfer to another licensed program (1) in the same county in which such person has commenced participation in

such program, upon approval of such county's alcohol program administrator, or (2) in a county other than the county in which such person has commenced participation in such program, upon approval of the alcohol program administrator of the county in which such person is participating and the county in which such person is requesting transfer.

(e) Subdivision (d) shall not be applicable (1) if the court has ordered the person to participate in a specific licensed program, unless such court orders the transfer or, (2) if the person is under formal probation, unless the probation officer consents to the transfer. The department shall establish reporting forms and procedures to ensure that the court receives notice of any program transfer pursuant to this subdivision or subdivision (d).

(f) Jurisdiction of all postconviction matters arising pursuant to this section may be retained by the court of conviction.

(g) The department, in cooperation with the Department of Motor Vehicles and the alcohol program administrators, shall establish procedures to ensure the effective implementation of this section.

SEC. 69. Section 11837.4 of the Health and Safety Code is amended to read:

11837.4. (a) The department shall have sole authority to license programs pursuant to this chapter. No program, regardless of how it is funded, may be licensed unless it meets the standards established by the department, which shall include, but need not be limited to, all of the following:

(1) Each program shall provide for close and regular supervision of the person, including face-to-face interviews at least once every other calendar week, regarding the person's progress in the program. The interviews shall be conducted individually with each person being supervised and shall occur at times other than when the person is participating in any group or other activities of the program. No program activity in which the person is participating shall be interrupted in order to conduct the individual interviews.

(2) The department shall approve all fee schedules for the programs and shall require that each program make provision for persons who cannot afford the fees in order to enable these persons to participate. The department shall ensure that the fees are set at amounts which will enable programs to provide adequately for the services required pursuant to this chapter. The fees shall be used only for the purposes set forth in this chapter, except that any profit or surplus, that does not exceed the maximum level established by the department, may be utilized for any purposes allowable under any other provisions of law. In its standards, the department shall define, for the purposes of this paragraph, the terms "profits" and "surplus". The department may not license any program if the department finds that any element of the administration of the program does not assure the fiscal integrity of the program.

(3) Each licensed program shall include a variety of alcohol

services for problem drinkers and alcoholics or shall have the capability of referring the persons to, and regularly and closely supervising the persons while in, appropriate alcohol services for their problem drinking. In addition to the requirements of paragraph (1), the department shall prescribe in its standards what other services the program shall provide its participants, which services may include lectures, classes, group discussions, individual counseling in addition to the interviews required by paragraph (1), or any combination thereof. However, any class or group discussion, other than lectures, shall not exceed 15 persons at any one meeting.

(4) In order to assure program effectiveness, the department shall require, whenever appropriate, that the licensed program provides services to ethnic minorities, women, youth, or any other group that has particular needs relating to the program.

(5) The goal of each program shall be to assist persons participating in the program to recognize their problem drinking and to assist them to recover.

(6) Each program shall establish a method by which the court, the Department of Motor Vehicles, and the person are notified in a timely manner of the person's failure to comply with the program's rules and regulations.

(b) Each program may be an extension of an existing program or a new program. No such program may be licensed, however, unless the county complies with the requirements of subdivision (b) of Section 11812.

(c) A county or program shall not prescribe additional program requirements unless the requirements are specifically approved by the department.

(d) The department may license a program on a provisional basis.

SEC. 70. Section 11837.5 of the Health and Safety Code is amended to read:

11837.5. (a) No person may participate in any program that has not been licensed by the department pursuant to the regulations adopted pursuant to this part.

(b) The department shall charge a reasonable fee for licensing or for the renewal of a license of a program. The fee shall be set at a level sufficient to cover all administrative costs incurred by the department.

(c) There is established in the State Treasury a Drinking Driver Program Licensing Trust Fund. All licensure fees collected from the providers of drinking driver service shall be deposited in this fund. The money in the fund shall be available when appropriated by the Legislature.

Except as otherwise provided in this section, if funds remain in this fund after allocation by the Legislature for the department's costs, a percentage of the excess funds shall be annually rebated by the Legislature to the licensees based on the percentage their licensing fee is of the total amount of fees collected by the department. A reserve equal to 10 percent of the total licensure fees collected

during the preceding fiscal year may be held in the trust fund for allocation by the Legislature to reimburse the department if actual costs for licensure administration exceed fees collected during a fiscal year.

SEC. 71. Section 11837.6 of the Health and Safety Code is amended to read:

11837.6. (a) The major responsibility for assuring programmatic and fiscal integrity of each program rests with the alcohol program administrator of each county utilizing a program pursuant to this chapter.

(b) The alcohol program administrator shall assure, through ongoing monitoring, compliance with the regulations of the department by any program licensed by the department.

(c) The alcohol program administrator shall submit a description of each licensed program as part of the county alcohol program plan.

SEC. 72. Section 11837.7 of the Health and Safety Code is amended to read:

11837.7. (a) The alcohol program administrator, or the advisory board acting through the alcohol program administrator, shall inform the board of supervisors immediately if it is determined that any program is not meeting the regulations adopted by the department. The board of supervisors shall notify the department in writing if it finds that any program does not meet the regulations adopted by the department.

(b) The department, the alcohol program administrator, the chief probation officer, or their authorized representatives may enter, in a nondisruptive manner, any class, lecture, group discussion, or any other program element to observe such activities.

(c) The department shall require license renewal of all programs on a biennial basis, and shall charge a fee pursuant to subdivision (b) of Section 11837.5 for the license renewal.

(d) Notwithstanding subdivision (a) of Section 11837.6, the department may audit, or contract for the auditing of, any licensed program.

SEC. 73. Section 11837.8 of the Health and Safety Code is amended to read:

11837.8. (a) The department shall authorize each county alcohol program administrator to retain, in an amount not in excess of that specified by the department, a portion of the fees charged for participation in the program that is sufficient to reimburse the county for the costs and expenses which the administrator reasonably incurs in discharging his or her duties pursuant to this chapter.

(b) A county may not use for any purpose set forth in this chapter any funds allocated to it by the department pursuant to Chapter 10 (commencing with Section 11840). The board of supervisors may authorize the use of any other funds for any such purpose.

(c) Notwithstanding subdivision (b), a county with a population of 20,000 or less may utilize funds allocated by the department to establish and administer a program if the department finds that such

county cannot establish a self-supporting program at reasonable cost or is unable to establish jointly a program with another county. If such an exception is granted, reasonable effort shall be made by the county to observe the intent of subdivision (b) that programs be self-supporting.

SEC. 74. Section 11837.9 of the Health and Safety Code is amended to read:

11837.9. As an element of the program, the probation department may provide any of the face-to-face interviews required pursuant to paragraph (1) of subdivision (a) of Section 11837.4 and may supplement any of the other services required to be provided by a program. The participation of the probation department shall be described in the amendment to the county alcohol program program plan.

SEC. 75. Section 11838.1 of the Health and Safety Code is amended to read:

11838.1. The department, in cooperation with the county and the Department of Motor Vehicles, shall establish uniform statewide reporting procedures and forms for the submission of any appropriate documents or information from boards of supervisors, administrators of programs, alcohol program administrators and program participants to assure effective implementation of this chapter.

SEC. 76. Section 11838.2 of the Health and Safety Code is amended to read:

11838.2. The Legislature finds and declares that, in order to provide for orderly and effective implementation of this chapter, to prevent the courts and programs in each county from being overburdened at the commencement of the implementation of this chapter, and to protect the public health and safety, this chapter shall apply only on a prospective basis. Therefore, this chapter shall apply only to persons who are alleged to have committed the offense of driving while under the influence of intoxicating liquor or under the combined influence of intoxicating liquor and any drug, and who committed such an offense, if at all, on or after the date when a program to which persons may be referred by the court has been licensed by the department. Programs which are currently approved by the department but not licensed by the department shall submit a written request for licensing to the department within 90 days after the effective date of the 1984 amendments to this section. The written request shall contain a certified recommendation by the board of supervisors endorsing the programs' request for licensing. Programs meeting this requirement shall be determined to be licensed pending an onsite review by the department. The interim license shall be valid for a period not exceeding 24 months as determined by the department. Those persons who qualify for participation in the program may be referred to such a program, within the discretion of the court of jurisdiction, only subsequent to conviction for that offense.

The Legislature finds and declares that the provisions of this section are declaratory of existing law, as enacted by Chapter 890, Statutes of 1977. The Legislature further finds and declares that the provisions of this section are not intended to alter the application of Chapter 890, Statutes of 1977; rather, the provisions of this section are intended to clarify the original intent of the Legislature in enacting that chapter.

SEC. 77. The heading of Article 1 (commencing with Section 11840) of Chapter 10 of Part 2 of Division 10.5 of the Health and Safety Code is amended to read:

Article 1. State Hospital Match

SEC. 78. Section 11840 of the Health and Safety Code is amended to read:

11840. Each county shall provide matching funds for programs and services provided by the county under this part, except as follows:

(a) Commencing January 1, 1985, state hospital alcohol programs shall be funded on the basis of 85 percent state funds and 15 percent county funds.

(b) The cost of state hospital services in counties with a population of 100,000 or less shall be financed on the basis of 90 percent state funds and 10 percent county funds.

SEC. 79. Article 2 (commencing with Section 11840.1) is added to Chapter 10 of Part 2 of Division 10.5 of the Health and Safety Code, to read:

Article 2. County Match

11840.1. Commencing January 1, 1985, and for every fiscal year thereafter, 10 percent county matching funds shall be required for support of programs and services provided under this part by a county of more than 100,000 population.

SEC. 80. The heading of Article 2 (commencing with Section 11841) of Chapter 10 of Part 2 of Division 10.5 of the Health and Safety Code is amended and renumbered to read:

Article 3. Other Revenues

SEC. 81. Section 11841 of the Health and Safety Code is amended to read:

11841. (a) It is the intent of the Legislature that all programs funded under this part shall be partially self-supporting by raising revenues in addition to the funds allocated by the department. Such revenues may include, but are not limited to, fees for services, private contributions, grants, or other governmental funds. These revenues shall be used in support of additional alcohol services or facilities.

(b) (1) Each program funded under this part which provides direct alcohol services shall assess fees to participants in the programs.

(2) County-operated and contract providers of services shall set fees and follow fee assessment and collection practices that promote recovery from problem drinking. Counties and contract providers of services may utilize a variety of methods to set and collect fees, provided, that such methods do not result in the withholding of alcohol services because of the participant's present inability to pay for such services.

(3) The county alcohol program administrator shall approve the criteria of each provider for fee collection, which shall describe how the provider charges and collects fees. In collecting fees, providers shall take into account a client's income and expenses. Such written criteria shall be a public record and shall be made available to the department or any individual upon request.

(c) Each county shall identify in its annual report of expenditures the types and amounts of revenues raised by all the providers of services funded under this part.

SEC. 82. Section 1463.16 of the Penal Code is amended to read:

1463.16. (a) Notwithstanding Section 1203.1 or 1463, fifty dollars ($50) of each fine for each conviction of a violation of Section 23103, 23104, 23152, or 23153 of the Vehicle Code shall be deposited with the county treasurer in a special account for exclusive allocation by the county for the county's alcoholism program, with approval of the board of supervisors, for alcohol programs and services for the general population. These funds shall be allocated through the local planning process pursuant to specific provision in the county alcohol program plan which is submitted to the State Department of Alcohol and Drug Programs. Programs shall be certified by the Department of Alcohol and Drug Programs or have made application for certification to be eligible for funding under this section. The county shall implement the intent and procedures of subdivision (b) of Section 11812 of the Health and Safety Code while distributing funds under this section.

(b) In a county of the first, second, or fifteenth class, notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, fifty dollars ($50) for each conviction of a violation of Section 23103, 23104, 23152, or 23153 of the Vehicle Code shall be deposited in a special account for exclusive allocation by the administrator of the county's alcoholism program, with approval of the board of supervisors, for alcohol programs and services for the general population. These funds shall be allocated through the local planning process pursuant to a specific provision in the county plan which is submitted to the State Department of Alcohol and Drug Programs. For those services for which standards have been developed and certification is available, programs shall be certified by the State Department of Alcohol and Drug Programs or shall apply for certification to be eligible for funding under this

section. The county alcohol administrator shall implement the intent and procedures of subdivision (b) of Section 11812 of the Health and Safety Code while distributing funds under this section.

(c) It is the specific intent of the Legislature that funds expended under this part shall be used for ongoing alcoholism program services as well as for contracts with private nonprofit organizations to upgrade facilities to meet state certification and state licensing standards and federal nondiscrimination regulations relating to accessibility for handicapped persons.

(d) Counties may retain up to 5 percent of the funds collected to offset administrative costs of collection and disbursement.

SEC. 83. Section 23161 of the Vehicle Code is amended to read:

23161. (a) If the court grants probation to any person punished under Section 23160, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as a condition of probation that the person be subject to one of the following:

(1) Be confined in the county jail for at least 48 hours but not more than six months and pay a fine of at least three hundred ninety dollars ($390) but not more than five hundred dollars ($500). The court may order the Department of Motor Vehicles to suspend the privilege to operate a motor vehicle pursuant to paragraph (1) of subdivision (a) of Section 13352 when this condition of probation is imposed.

(2) Pay a fine of at least three hundred ninety dollars ($390) but not more than five hundred dollars ($500) and have the privilege to operate a motor vehicle restricted for 90 days to necessary travel to and from that person's place of employment and to and from the treatment program described in subdivision (b) and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment.

(b) In any county where the board of supervisors has approved such a program or programs, the court shall also impose as a condition of probation that the driver shall participate in, and successfully complete, an alcohol or drug education program, or both of these programs, as designated by the court.

(c) Each county which has approved an alcohol or drug education program or programs shall make provision for persons who cannot afford the program fee, in order to enable those persons to participate.

(d) In order to assure effectiveness of the alcohol or drug education program, the county shall provide, as appropriate, services to ethnic minorities, women, youth, or any other group that has particular needs related to the program.

SEC. 85. Section 2626.1 of the Unemployment Insurance Code is amended to read:

2626.1. (a) An individual who is a resident in an alcoholic recovery home pursuant to referral or recommendation by a physician shall be eligible for disability benefits for a period not in

excess of 30 days in any disability benefit period while receiving resident services, if an authorized representative of the alcoholic recovery home certifies that the individual is a resident participating in an alcoholic recovery program which has been certified by the State Department of Alcohol and Drug Programs. The individual shall be eligible for disability benefits for an additional period not in excess of 30 days if the referring physician certifies to the need of the individual for continuing resident services.

(b) The department shall reimburse the State Department of Alcohol and Drug Programs from the Disability Fund, in a reasonable amount as determined by the department, for the expense of reviewing any alcoholic recovery program, as required by the department in the administration of subdivision (a) which is not funded in the county alcohol program plan provided for in Article 3 (commencing with Section 11810) or Article 4 (commencing with Section 11830) of Part 2 of Division 10.5 of the Health and Safety Code.

SEC. 86. Section 6 of Chapter 944 of the Statutes of 1978 is amended to read:

Sec. 6. The department shall seek data from the State Department of Alcohol and Drug Programs and the California Association of Alcoholic Recovery Homes to determine the adequacy of the maximum 30-day period for the payment of benefits specified in subdivision (a) of Section 2626.1 of the Unemployment Insurance Code as a reasonable period of primary recovery and whether it should be modified.

SEC. 7. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1329

An act to amend Sections 11865, 11866, 11868, 11869, 11870, 11876, 11877, 11880, 11960, 11961, 11963, 11964, 11965.7, 11966, 11966.5, 11967, 11968, 11969, 11969.5, 11972, 11973, 11981, 11983, 11984, 11985, 11987, 11989, and 11993 of, to add Sections 11960.1, 11983.1, 11983.2, 11983.3, 11983.4, 11983.5, 11983.6, 11983.7, 11987.3, 11987.5, 11987.6, 11987.8, 11987.9, 11991, 11991.2, 11991.3, 11991.4, 11991.5, 11991.6, 11991.7, 11991.8, 11991.9, 11994, 11996, and 11997 to, to add, repeal, and add Section 11987.4 of, and to repeal Sections 11970 and 11992 of, the Health and Safety Code, and to amend Sections 5650, 5651, 5652, 5701, 5708.5, 5750, and 14021 of, and to repeal Section 5606.5 of, the Welfare and Institutions Code, relating to drug abuse programs, and making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 25, 1984.]

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

SECTION 1. Section 11865 of the Health and Safety Code is amended to read:

11865. The state department shall be a central information resource on drug abuse prevention and treatment programs and on research projects with respect to drug abuse.

The state department shall collect, and act as an information exchange for, information on research and service projects completed or in progress relating to drug abuse, provide, to any person, institution, or public agency proposing any research or service project on such subject, information with respect to the areas in which research is needed, evaluate programs of research, treatment and education with respect to drug abuse. No state agency shall conduct any research or service project on drug abuse until it has provided the state department with a description of its proposed project and until the state department has responded with a written description of how the research or service project relates with other completed, concurrently operating, or pending research or service projects. If the state department fails to provide the agency with such written description within 60 days from the date of receipt of the proposed project, the state agency may proceed to conduct the research or service project as described in their proposal.

SEC. 2. Section 11866 of the Health and Safety Code is amended to read:

11866. The state department, at the request of the county drug program administrator, may assist local community organizations in initiating effective programs to prevent and treat drug abuse. The department may charge a fee for such assistance.

SEC. 3. Section 11868 of the Health and Safety Code is amended to read:

11868. The state department may develop and implement a mass media drug education program involving newspapers, radio and television in order to provide community education, develop public awareness and motivate community action in drug abuse prevention, treatment, and rehabilitation.

SEC. 4. Section 11869 of the Health and Safety Code is amended to read:

11869. The state department may develop an objective program evaluation device or methodology and evaluate state-supported drug abuse prevention and treatment programs.

SEC. 5. Section 11870 of the Health and Safety Code is amended to read:

11870. The state department shall, in consultation with the State Department of Education, screen and evaluate drug abuse books, pamphlets, literature, movies, and other audiovisual aids and may

prepare and disseminate lists of such recommended materials to schools, public libraries, drug information centers, and other such public and private agencies. The state department may charge a fee, not exceeding actual costs for providing the materials.

SEC. 6. Section 11876 of the Health and Safety Code is amended to read:

11876. In addition to the duties authorized by other provisions, the department shall have all of the following powers:

(a) Authority to license the establishment of methadone programs in this state, except that the Research Advisory Panel shall have authority to approve methadone research programs. The department shall establish the criteria for the eligibility of patients to be included in the programs, program operation guidelines, such as dosage levels, recordkeeping and reporting, urinalysis requirements, take-home doses of methadone, security against redistribution of the drug and any other regulations which, in its discretion, the department finds are necessary to protect the safety and well-being of the patient and the public and to carry out the provisions of this chapter. The arrest and conviction records and the records of pending charges against any person seeking admission to a methadone program shall be furnished to methadone program directors upon written request of the methadone program director provided such request is accompanied by a signed release from the person whose records are being requested.

(b) To monitor methadone programs in this state to ensure that programs are operating within promulgated regulations. The department shall have sole responsibility for compliance monitoring of all programs in each county. The department shall charge and collect licensure fees. In calculating the licensure fees the department shall include staff salaries and benefits, related travel costs, and state operational and administrative costs. Fees shall be used to offset licensure and monitoring costs not to exceed actual costs. Monitoring of methadone programs shall be based on objective criteria, as provided in regulations adopted by the department. Nothing in this section shall preclude counties from monitoring their contract providers for compliance with contract requirements.

(c) There is established in the State Treasury a Methadone Program Licensing Trust Fund. All licensure fees collected from the providers of methadone service shall be deposited in this account. Except as otherwise provided in this section, if funds remain in this account after appropriation by the Legislature and allocation for the costs associated with methadone licensure and monitoring of methadone programs, a percentage of the excess funds shall be annually rebated to the licensees based on the percentage their licensing fee is of the total amount of fees collected by the department. A reserve equal to 10 percent of the total licensure fees collected during the preceding fiscal year may be held in the trust account to reimburse the department if actual costs for the licensure and monitoring exceed fees collected during a fiscal year.

(d) To study and evaluate, on an ongoing basis, methadone programs.

(e) To provide advice, consultation, and technical assistance to methadone programs.

(f) In its discretion, to approve local agencies or bodies to assist it in carrying out the provisions of this chapter.

(g) It is the intent of the Legislature in enacting this section in order to protect the general public, that self-administered dosage shall only be provided when the patient is clearly adhering to the requirements of the program, and where daily attendance at a clinic would be incompatible with gainful employment, education, and responsible homemaking. The department shall define "satisfactory adherence" and shall ensure that patients not satisfactorily adhering to their programs shall not be provided take-home dosage.

SEC. 7. Section 11877 of the Health and Safety Code is amended to read:

11877. In addition to the duties authorized by other provisions, the department shall be responsible for licensing methadone programs. No methadone program shall be established without first obtaining a license therefor as provided in this chapter. The department may license methadone programs on an inpatient or outpatient basis, or both.

SEC. 8. Section 11880 of the Health and Safety Code is amended to read:

11880. It is the intent of the Legislature in licensing methadone programs to provide a means whereby the patient may be rehabilitated and will no longer need to support a dependency on heroin. It is, therefore, the intent of the Legislature that each methadone program shall have a strong rehabilitative element, including, but not limited to, individual and group therapy, counseling, vocational guidance, and job and education counseling. The Legislature declares the ultimate goal of all methadone programs shall be to aid the patient in altering his or her lifestyle and eventually to eliminate all dependency on drugs.

The department shall promulgate such regulations as are necessary to ensure that every program is making a sustained effort to end the drug dependency of the patients.

SEC. 9. Section 11960 of the Health and Safety Code is amended to read:

11960. The Legislature recognizes that drug abuse should be viewed and treated as a health problem, as well as a law enforcement problem. The drug abuse problem has significant public impact and must, in addition to law enforcement, be given community, education, social, and health attention if prevention and amelioration is to be achieved. These approaches should be coordinated into a multiagency and multifaceted program for drug abuse control in the counties of the state.

It is the intent of the Legislature that community drug abuse services shall be organized in the counties for drug abusers through

locally administered and locally controlled community drug abuse programs. The community drug abuse programs shall operate under the principle that services are designed to be equally accessible to all persons, including persons who because of differences in language, cultural differences in language, cultural traditions, or physical disabilities, confront barriers to knowing about or to using the drug abuse services which are offered.

SEC. 10. Section 11960.1 is added to the Health and Safety Code, to read:

11960.1. It is the intent of the Legislature that the State Department of Alcohol and Drug Programs encourage the development of high quality, cost-effective services. It is further the intent of the Legislature that poor quality, underutilized, duplicative, or marginal services be disapproved by the county.

SEC. 11. Section 11961 of the Health and Safety Code is amended to read:

11961. As used in this chapter:

(a) "Administrator" means the county drug program administrator designated pursuant to Section 11962.

(b) "Governing body" means the county board of supervisors or boards of supervisors in the case of counties acting jointly.

(c) "County drug program plan" means the drug program plan, as required pursuant to Section 11983.1.

(d) "Advisory board" means the county advisory board established pursuant to Section 11964.

(e) "Drug abuse services" means any service directed toward early intervention in, or alleviation or prevention of, drug abuse, including, but not limited to, diagnosis, evaluation, treatment, information, referral, consultation, and community services.

(f) "Director" means the Director of the State Department of Alcohol and Drug Programs.

SEC. 12. Section 11963 of the Health and Safety Code is amended to read:

11963. The county drug program administrator shall have the following powers and duties:

(a) He or she shall be responsible for the preparation of the county drug program plan.

(b) He or she shall exercise general supervision over the drug program services provided under the county drug program plan.

(c) He or she shall recommend to the board of supervisors, after consultation with the advisory committee, the provision of services, establishment of facilities, contracting for services or facilities, and other matters necessary or desirable in accomplishing the purposes of this chapter.

(d) He or she shall submit an annual report to the board of supervisors reporting all activities of the drug program, including a financial accounting of expenditures and a forecast of anticipated needs for the ensuing year.

(e) He or she shall carry on such studies as may be appropriate to

the discharge of his or her duties.

(f) He or she shall be responsible for the ongoing coordination of all public and private drug abuse programs and services in the county.

(g) He or she shall administer all drug program funds allocated to the county under this chapter. All drug program funds allocated by the department to programs or projects within the county shall be expended only with the prior certification by the drug program administrator, and the county advisory board on drug programs, and notification to the board of supervisors, that the program allocation is consistent with the priorities in the approved county drug program plan.

(h) He or she shall be responsible to the board of supervisors, through administrative channels designated by the board of supervisors, for the drug program of the county.

(i) He or she shall be responsible for the planning and consultation process for the adoption of regulations as required by the department pursuant to Section 11864.

(j) He or she may participate with a majority of the other county drug program administrators in forming an association of county drug program administrators for the purposes of representing the counties in their relationship with the state on drug abuse services with respect to policies, standards, and administration.

SEC. 13. Section 11964 of the Health and Safety Code is amended to read:

11964. (a) Except as provided in subdivision (b), each county shall have an advisory board on drug programs composed of not less than seven members appointed by the board of supervisors. Members shall have a professional interest in, or personal commitment to, alleviating problems related to drug abuse in their community. The membership shall include representatives from various economic, social, and occupational groups and shall be broadly representative of the demographic characteristics of the county.

The advisory board shall be independent from any other advisory board established pursuant to any provision of state law. However, the advisory board shall coordinate its efforts, where appropriate, with other county advisory boards concerned with drug problems.

This subdivision applies only to counties the population of which exceeds 125,000.

(b) In counties where the population does not exceed 125,000, the board of supervisors shall appoint an advisory board which shall be composed of not less than seven members which may be independent, under the jurisdiction of another health-related advisory board established pursuant to any provision of state law, or has the same membership as such other advisory board or agency. It is the intent of the Legislature that the boards meet the same membership requirements described in subdivision (a).

(c) If two or more counties the combined population of which

exceeds 200,000 jointly apply to the department for funds under this part, the advisory board for its drug program shall consist of not less than 15 members, and shall otherwise be subject to the requirements of subdivision (a). If the combined population of the counties does not exceed 200,000, the requirements of subdivision (b) shall apply to the counties.

(d) The Legislature recognizes that persons employed by programs which provide drug abuse services and members of their boards of directors have a great deal of knowledge and experience to share with other people in the community concerned with alleviating drug abuse problems. The Legislature also recognizes that there are many people in the community who have knowledge about, or interest or experience in, alleviating drug problems who do not have any direct or indirect financial or other relationship to drug programs in the county. The Legislature desires to include both groups of these persons on advisory boards and also to establish control for real or apparent conflicts of interest that might arise.

Therefore, there may be at least two representatives of a public or private drug abuse program, and these members shall comply with existing conflict of interest laws when participating in the tasks and functions of the board. The advisory board shall not include in excess of 33⅓ percent of its membership any person, or his or her spouse, who is any of the following:

(1) A member of a board of directors or advisory body or employee of any county operated or county contract provider of drug services, or of any program approved pursuant to Section 11876.

(2) A direct recipient of any state funds allocated under this part pursuant to a contract with the department, which shall include compensation for contracted services or membership on an advisory body or board of directors of the recipient agency.

(e) Except as required under subdivision (b), the advisory board shall not include any person, or his or her spouse, who is any of the following:

(1) A member of the board of supervisors or a person on the staff of a member of the board of supervisors.

(2) A county employee of the health-related agency or department, with which the drug program administrator designated pursuant to Section 11962 may be affiliated.

The board of supervisors may, by resolution, designate further categories of persons who may not serve on the board, provided that the prohibitions are consistent with the intent of this section. It is the intent of the Legislature in authorizing the board of supervisors to designate such further categories that the integrity of, and the community's confidence in, the advisory board be maintained.

(f) In the event that prior to the expiration of his or her term, a member ceases to retain the status which qualified him or her for appointment to the advisory board, his or her membership on the advisory board shall terminate and there shall be a vacancy on the advisory board to be filled by the board of supervisors.

(g) The members of the advisory board may be removed for cause pursuant to standards adopted by the advisory board which are consistent with the provisions of this article and which are approved by the board of supervisors.

(h) Each member of the board shall be appointed for a term of three years. Persons already serving as members of the drug advisory board may continue to serve until the expiration of their terms, provided that they meet the other conditions for membership required pursuant to this article.

(i) The advisory board shall meet at least bimonthly and may meet at such other times as may be deemed necessary by the chair or drug program administrator. The members of the advisory board shall serve without compensation, but may be reimbursed for any actual and necessary expenses incurred in connection with their duties under this article. However, the members may receive compensation out of county funds at the option of the board of supervisors.

(j) All meetings of the advisory board shall be open to the public and shall be subject to the provisions of Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, relating to meetings of local agencies.

(k) The advisory board shall do all of the following:

(1) Participate in the planning process.

(2) Review the county drug program plan.

(3) Advise the county drug program administrator on policies and goals of the county drug program and on any other related matters the drug program administrator refers to it, or which are raised by the advisory board.

(4) Encourage and educate the public to understand the nature of drug problems, and encourage support throughout the county for development and implementation of effective drug abuse programs.

(5) Review and generically evaluate the community's drug program needs, services, facilities, and special programs.

(6) Review and approve the procedures used to insure citizen and professional involvement at all stages of the planning process leading to the formulation and adoption of the county drug program plan.

SEC. 14. Section 11965.7 of the Health and Safety Code is amended to read:

11965.7. In those counties electing to apply for funds under this article, both the county administrator and the county office of education shall designate units with primary responsibility for planning and administering the School-Community Primary Prevention Program. These units shall work together on a cooperative basis to review the school and community program application for funds. The joint application of the county administrator and the county office of education shall be submitted to the local primary prevention advisory committee, as established pursuant to subdivision (b) of Section 11966, for review and comment. After this review, the application shall be submitted to the

state. Applications for funding shall be reviewed by an external review selection committee. This committee shall be comprised of no less than six members, three being appointed by the State Department of Education and three being appointed by the State Department of Alcohol and Drug Programs. The committee shall review applications and make recommendations for grant awards. The State Department of Alcohol and Drug Programs and the State Department of Education shall enter into an interagency agreement in order to carry out the provisions of this chapter. Approval of both state departments is required for funding.

SEC. 15. Section 11966 of the Health and Safety Code is amended to read:

11966. The planning process at the county level shall include all of the following, which shall be incorporated into each local school-community primary drug abuse prevention plan submitted to the State Department of Education and the State Department of Alcohol and Drug Programs:

(a) A copy of the resolutions of the board of supervisors and the county board of education electing to apply for funding under this article, and documentation of public notice as required by Section 11967.

(b) Incorporation of comments on program plans provided by the local primary prevention advisory committee. This committee may be the existing drug abuse advisory board unless the county board of supervisors and the county board of education have each adopted a resolution requiring the formation of an independent committee. Independent committees so established shall consist of 10 members, five members being appointed by the board of supervisors and five by the county board of education.

(c) Certification by the county drug program administrator and the county office of education of each others plans, emphasizing public notice and nonduplication of programming, especially with respect to nonduplication of the drug program application and of any services provided pursuant to Section 51260 of the Education Code.

(d) Submission of the application as required under Section 11965.7.

(e) Evidence that there has been coordination with existing successful programs in the development of the county plans, and assurance of maintenance of current efforts in order to preclude the use of funds to support existing programs.

(f) Provision for no more than 5 percent of the county level program funds being used for program administration, and specification of measurable goals and objectives for each program to be funded pursuant to the application.

(g) Evidence that any program funded for two years or more under this article has substantially achieved its measurable goals and objectives as specified in the approved application. The county agencies allocating funds to individual applicants or programs pursuant to the county application shall have responsibility to

institute monitoring systems to insure compliance with this requirement.

(h) In counties in which the board of education is appointed by the board of supervisors, the board of supervisors shall have final authority for application, planning, and implementation of programs funded under this article.

SEC. 16. Section 11966.5 of the Health and Safety Code is amended to read:

11966.5. The application from each county shall be submitted, with appropriate documentation as provided in Section 11966, on or before the existing deadline for the county drug program plan.

SEC. 17. Section 11967 of the Health and Safety Code is amended to read:

11967. Upon receiving letters from the State Department of Education and the State Department of Alcohol and Drug Programs, respectively, specifying the eligible county allocation, as required under subdivision (c) of Section 11967.5, both the county drug program administrator and the county office of education shall announce the availability of funds locally under the School-Community Primary Prevention Program pursuant to Section 6061.3 of the Government Code, and shall also disseminate such information to the public media, to school districts within the county, and to community nonprofit organizations providing preventive services to youth. The public notice shall specify the nature and content of the program as provided in this article, and shall inform agencies and organizations concerning the details of applying for funds.

SEC. 18. Section 11968 of the Health and Safety Code is amended to read:

11968. Upon completion of the review process and selection of grant awards, the state agencies shall negotiate contracts with public agencies to carry out primary prevention programs. These shall include county drug offices and offices of education which meet the requirements of Section 11965.

SEC. 19. Section 11969 of the Health and Safety Code is amended to read:

11969. The county drug program administrator and the county office of education may enter into interagency agreements between themselves which will allow any of the management or fiscal tasks, or both, created pursuant to this article and assigned to both the county office and the drug program administrator to be performed by only one of them.

SEC. 20. Section 11969.5 of the Health and Safety Code is amended to read:

11969.5. The State Department of Education and the State Department of Alcohol and Drug Programs shall establish mutually cooperative arrangements for sharing reports on the implementation of this article.

SEC. 21. Section 11970 of the Health and Safety Code is repealed.

SEC. 22. Section 11972 of the Health and Safety Code is amended to read:

11972. The county shall establish and maintain a registry of all drug abuse programs within the county in order to promote a coordination of effort in the county.

SEC. 23. Section 11973 of the Health and Safety Code is amended to read:

11973. Each drug abuse program in a county shall register annually with the county drug program administrator by July 1 or within 30 days after being established.

SEC. 24. Section 11981 of the Health and Safety Code is amended to read:

11981. The state department shall coordinate state and local drug abuse prevention, care, treatment, and rehabilitation programs. It is the intent of the Legislature that the department and the counties maintain a cooperative partnership to assure effective implementation of the provisions of this division.

SEC. 25. Section 11983 of the Health and Safety Code is amended to read:

11983. Each county drug program plan and program budget shall be reviewed by the state department according to the provisions of this part and the guidelines and regulations adopted by the state department pursuant to this part.

The department shall estimate an allocation of state and federal funds available for each county to implement its approved program. In making allocations to counties, the department shall base its allocations on the population of each county. However, the department shall assure that each small population county receives a minimum amount of funds to provide adequate drug services. The department may take into account other factors in making the allocations if the department finds that the factors relate to the level of drug problems in the county. Not later than 45 days after introduction of the Budget Bill, the department shall notify each county regarding its preliminary allocation under this division, pending enactment of the Budget Bill.

SEC. 26. Section 11983.1 is added to the Health and Safety Code, to read:

11983.1. On March 15 of each year, or 45 days after issuance of the preliminary allocation, whichever is later, the county board of supervisors shall submit to the department in accordance with the approved planning process pursuant to Section 11983.2 and in conformance with the requirements of Section 11966 and any regulations promulgated by the department, a proposed county drug program plan for the fiscal year beginning July 1. The final county drug program plan shall be submitted on or before September 15.

Counties of population of 200,000 or less may submit a combined drug program and alcohol program plan providing a separate drug and a separate alcohol program budget is included.

The department shall develop standard forms to be used by the

counties in the submitting of the county drug program plan. The forms shall include terms and conditions relative to county compliance with applicable laws, regulations, standards, and guidelines.

SEC. 27. Section 11983.2 is added to the Health and Safety Code, to read:

11983.2. The county drug program plan shall include all of the following:

(a) A description of the proposed uses of the drug program funds which addresses all of the following:

(1) A statement of the goals and objectives of the county drug program.

(2) A description of the drug program, activities, and services supported by this plan, and characteristics of the individuals to be served.

(3) Criteria and methods for the distribution of the funds, including details on how the distribution of funds will be targeted on the basis of need.

(4) Criteria to evaluate the effective performance of programs activities and services supported by this grant.

(5) Beginning in fiscal year 1985–86, the fiscal year 1985–86 applications shall include a description of how the county has met the goals, objectives and needs in the use of funds for the previous year's application.

(b) Certification of compliance with all of the following requirements:

(1) County shall conduct a public hearing on the proposed use and distribution of funds and any changes shall be made public within the county on a timely basis and in such manner as to facilitate comments from interested persons.

(2) County shall administer the county drug program in accordance with this division and all other applicable state and federal requirements including civil rights.

(3) Review of, and recommendations concerning, the planning process and the county drug program plan by the county drug advisory board and approval by the county board of supervisors.

(4) Permit and cooperate with specified state reviews and audits.

(5) Monitoring of all drug abuse treatment services receiving state or federal funds under this part.

(c) Budget information on the programs, activities and services supported by this drug program and the recipients of these services.

SEC. 28. Section 11983.3 is added to the Health and Safety Code, to read:

11983.3. When the county drug program plan is submitted to the department, it shall be accompanied by a document indicating the plan has been reviewed by the county advisory board on drug programs.

SEC. 29. Section 11983.4 is added to the Health and Safety Code, to read:

11983.4. The department shall develop and implement a statewide plan to alleviate problems related to inappropriate drug use and to overcome the barriers to their solution and review and revise the plan annually.

SEC. 30. Section 11983.5 is added to the Health and Safety Code, to read:

11983.5. (a) The 1984–85 fiscal year establishes base funding for the county alcohol and drug allocations. Beginning with the 1985–86 fiscal year, cost-of-living adjustments, if granted, shall be tied to the base allocation.

(b) A county with a population of 200,000 or less may shift funds between alcohol and drug programs at its discretion to fund traditional alcohol and drug program services, as funded under, and defined in, subdivision (m) of Section 11765 and subdivision (e) of Section 11961. These shifts shall be reflected in the county alcohol and drug program plans. Prior to the county shifting funds between alcohol and drug programs, approval shall be requested and obtained by the county from the director. The request and approval shall be in writing. The request shall include a description of the process and procedures used by the county, including public hearings, in determining the need for the funding shift and shall be accompanied by resolutions of support from the county advisory board on alcohol problems and the county advisory board on drug programs. The request shall be submitted as part of the proposed annual county drug program plan submitted to the department by the board of supervisors pursuant to Section 11983.1.

(c) Notwithstanding any other provision of this section, the director may reduce funding below the base year amounts of counties which underspend their allocation for two consecutive years by more than 5 percent. Any reduction shall be limited to the difference between 5 percent of the allocation and the total amount unspent. The amounts underspent shall be based on the most recent cost reports.

(d) Upon approval by both parties, the county drug program plan shall be deemed to be a contract between the state and county. The county drug program plan shall not be subject to review pursuant to Section 1478 of the Government Code.

(e) Two million five hundred thousand dollars ($2,500,000) is appropriated from the General Fund to the department to be allocated on a per capita basis or by any other formula that is determined by the department as necessary to carry out the purposes of this division relating to drugs, to each county to offset county administrative costs in assuming realignment of state and county functions relating to drug programs as provided in the act adding this subdivision and for drug programs of high need as determined by the county. However, only counties with populations of 200,000 or less may use all or a portion of these funds for either alcohol or drug services as provided for in this division, if the county fulfills the requirements contained in this section.

SEC. 31. Section 11983.6 is added to the Health and Safety Code, to read:

11983.6. Each county shall utilize available private drug abuse prevention and treatment resources and facilities in the county prior to developing new county-operated resources or facilities when such private drug abuse program resources or facilities are as favorable in quality and costs as are those operated by the county.

SEC. 32. Section 11983.7 is added to the Health and Safety Code, to read:

11983.7. Any community drug abuse service may by contract furnish community drug abuse services to any other county.

SEC. 33. Section 11984 of the Health and Safety Code is amended to read:

11984. The state department shall within available resources consult with federal, state and local agencies involved in the provision and delivery of services of prevention, care, treatment, and rehabilitation of drug abusers.

SEC. 34. Section 11985 of the Health and Safety Code is amended to read:

11985. The state department shall provide technical assistance, guidance, and information to local governments and state agencies with respect to the creation and implementation of programs and procedures for dealing effectively with drug abuse prevention, care, treatment, and rehabilitation. The department may charge a fee for these services.

SEC. 35. Section 11987 of the Health and Safety Code is amended to read:

11987. The state department shall, in the same manner and subject to the same conditions as other state agencies, develop and submit annually to the Department of Finance a program budget for the drug abuse program, including not only expenditures proposed to be made under this division, but also expenditures proposed to be made under related programs or by any other state agency, incidental to the prevention, control, and treatment of drug abuse. The state department may require state agencies to contract with it for services to carry out provisions of this division.

SEC. 36. Section 11987.3 is added to the Health and Safety Code, to read:

11987.3. Drug abuse services allowable under the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code) and included in the county's drug program plan and that are approved by the State Department of Alcohol and Drug Programs and the State Department of Health Services as qualified for financial participation under Title XIX of the federal Social Security Act shall be funded, notwithstanding Section 11987.4, at 100 percent of the state and federal cost by using an appropriate portion of the county's existing drug program allocation, as determined by the State Department of Alcohol and Drug Programs. The intent of the

Legislature in enacting this section is to provide a funding source for counties to establish drug abuse services without any increased costs to the State General Fund and at the same time not to require the county to provide additional matching funds in order for the county to use a portion of its state share of local drug programs Medi-Cal funds now available to counties without a required 10-percent match. If the federal government approves this financial participation under Title XIX, then the state allocation to counties pursuant to this section shall be replaced to the extent of the federal participation.

SEC. 37. Section 11987.4 is added to the Health and Safety Code, to read:

11987.4. (a) Except as provided in subdivision (b), the net cost of all services specified in the approved county drug program plan shall be financed on the basis of 90 percent state funds and 10 percent county funds except for local hospital inpatient cost, which shall be financed on a basis of 85 percent state funds and 15 percent county funds irrespective of where or by whom the services are provided, except for services to be financed from other public or private sources as indicated in the county drug program plan. In counties of less than 110,000 population, the cost requirements for local financial participation are waived for all programs.

(b) The cost of state hospital services shall be financed on the basis of 85 percent state funds and 15 percent county funds, except that in counties with less than 110,000 population, the cost of state hospital services shall be financed on the basis of 90 percent state funds and 10 percent county funds.

The department may reallocate any funds which are not matched by counties 30 days after notification of the Joint Legislative Budget Committee using a letter as prescribed in Section 28 of the Budget Act. However, the reallocated funds shall not be counted into the base allocation.

This section shall become inoperative July 1, 1985, and, as of January 1, 1986, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1986, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 38. Section 11987.4 is added to the Health and Safety Code, to read:

11987.4. (a) Except as provided in subdivision (b), the net cost of all services specified in the approved county drug program plan shall be financed on the basis of 90 percent state funds and 10 percent county funds except for local hospital inpatient cost, which shall be financed on a basis of 85 percent state funds and 15 percent county funds irrespective of where or by whom the services are provided, except for services to be financed from other public or private sources as indicated in the county drug program plan. Except as provided in subdivision (b), in counties of less than 100,000 population, the cost requirements for local financial participation are waived for all programs.

(b) The cost of state hospital services shall be financed on the basis of 85 percent state funds and 15 percent county funds, except that in counties with less than 100,000 population, the cost of state hospital services shall be financed on the basis of 90 percent state funds and 10 percent county funds.

The department may reallocate any funds which are not matched by counties 30 days after notification of the Joint Legislative Budget Committee using a letter as prescribed in Section 28 of the Budget Act. However, the reallocated funds shall not be counted into the base allocation.

This section shall become operative July 1, 1985.

SEC. 39. Section 11987.5 is added to the Health and Safety Code, to read:

11987.5. (a) The cost of services specified in the county drug program plan shall be actual cost as determined with standard accounting practices or a negotiated rate. Negotiated rate is a specific and fixed dollar rate for a specified unit of service provided. Negotiated rate may be used as the cost of services only between the county and private provider. The negotiated rate shall be approved by the county prior to commencing services for reimbursement and the rate shall be based upon the projected cost of providing the services and projected revenues realized as a result of providing the services. The provider shall make available to the county the prior year's actual costs of providing the services and actual revenues where the information is available.

(b) Negotiated rate for drug abuse services shall require approval by the department and shall be submitted to the department prior to the commencement date of the contract between the county and the provider. Once the negotiated rate has been approved by the department all participating governmental funding sources, except the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code), shall be bound to that rate as the cost of providing all or part of the total county drug program as described in the county drug program plan for each fiscal year to the extent that the governmental funding sources participate in funding the county drug program. Where the State Department of Health Services promulgate regulations for determining reimbursement of drug program services formerly allowable under the Short-Doyle program and reimbursed under the Medi-Cal Act, those regulations shall be controlling only as to the rates for reimbursement of drug program services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries. Providers under this section shall report to the State Department of Alcohol and Drug Programs and the county any information required by the State Department of Alcohol and Drug Programs in accordance with the procedures established by the Director of the State Department of Alcohol and Drug Programs.

(c) The Legislature recognizes that drug abuse services differ from mental health services provided through the Department of

Mental Health and therefore should not necessarily be bound by rate determination methodology used for reimbursement of those services formerly provided under the Short-Doyle program and reimbursed under the Medi-Cal Act. The State Department of Alcohol and Drug Programs and the State Department of Health Services shall, pursuant to Section 14021.5 of the Welfare and Institutions Code, develop a ratesetting methodology suitable for drug services reimbursed under the Medi-Cal program using an all-inclusive rate encompassing the costs of reimbursable service functions provided by each authorized modality.

SEC. 40. Section 11987.6 is added to the Health and Safety Code, to read:

11987.6. The director may reallocate, among county drug program plans, any savings occurring during the year in the state's share of funds for services provided under the county drug program plans. Reallocations shall be to counties desiring to provide services supplementary to services specified in approved county drug program plans in accordance with county and state drug program priorities.

SEC. 41. Section 11987.8 is added to the Health and Safety Code, to read:

11987.8. Expenditures incurred pursuant to this part, shall be in accordance with the regulations of the director and shall be subject to payment whether incurred by direct or joint operation of the facilities and services, by provisions therefor through contract, or by other arrangement pursuant to the provisions of this chapter. The director may make investigations and audits of the expenditures as he or she may deem necessary.

SEC. 42. Section 11987.9 is added to the Health and Safety Code, to read:

11987.9. In determining the amounts which may be paid, fees paid by persons receiving services or fees paid on behalf of such persons by the federal government, by the California Medical Assistance Program set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, and by other public or private sources, shall be deducted from the costs of providing services. Whenever feasible, drug abusing persons who are eligible for drug abuse services under the California Medical Assistance Program shall be treated in a facility approved for reimbursement in that program.

General unrestricted or undesignated private charitable donations and contributions made to charitable or nonprofit organizations shall not be considered as "fees paid by persons" or "fees paid on behalf of such persons" under this section and the contributions shall not be applied in determining the amounts to be paid. The unrestricted contributions shall not be used in part or in whole to defray the costs or the allocated costs of the California Medical Assistance Program.

SEC. 43. Section 11989 of the Health and Safety Code is amended to read:

11989. The state department may do all of the following:

(a) Enter into agreements and contracts with any person, agency, corporation, or other legal entity and other actions as are necessary to carry out the purposes of this division.

(b) Require state agencies to contract with it for services to carry out the provisions of this division.

(c) Enter into contracts for special studies and research to develop the information needed for formulating policies that will reduce the incidence of drug abuse problems through promising and innovative approaches in prevention, intervention, and treatment.

SEC. 44. Section 11991 is added to the Health and Safety Code, to read:

11991. Of the funds allocated to each county in accordance with Sections 11987.4 to 11987.9, inclusive, the department shall allocate to each county the amount required by that county to carry out its local drug abuse program in accordance with the approved county drug program plan required by Section 11983.2 and in accordance with the provisions of Section 11987.4.

SEC. 45. Section 11991.2 is added to the Health and Safety Code, to read:

11991.2. Expenditures subject to payment shall include: salaries of personnel, approved facilities and services provided through contract; operation, maintenance and service costs, depreciation of county facilities as established in the state's Uniform Accounting Manual, disregarding depreciation on the county facility to the extent it was financed by state funds under this part; lease of facilities where there is no intention to, nor option to, purchase; and other expenditures as may be approved by the director. They shall not include expenditures for initial capital improvement; the purchase of construction of buildings except for such equipment items and remodeling expenses as may be provided in regulations of the department; compensation to members of a local advisory board on drug programs (except actual and necessary expenses incurred in the performance of official duties); or expenditure for a purpose for which state reimbursement is claimed under any other provision of law.

SEC. 46. Section 11991.3 is added to the Health and Safety Code, to read:

11991.3. In addition, expenditures subject to payment shall also include expenses incurred by members of the local advisory board on drug programs in providing drug program services through the implementation of approved county drug program plans. Payment shall be made of actual and necessary expenses of members incurred incident to the performance of their official duties and may include travel, lodging, and meals while on official business.

SEC. 47. Section 11991.4 is added to the Health and Safety Code, to read:

11991.4. Whenever a county receives funds under a grant program for drug abuse services, in addition to the county drug

program plan, from either the federal or state government, or from any other grantor, public or private, and fails to include such grant program in the county drug program funding plan and drug program budget, the director shall not thereafter approve any, or provide, advance payment claims submitted by the county for state reimbursement under this part unless and until the county drug program plan and drug program budget has been reviewed to include such grant program and the revised county drug program plan and budget is approved by the director.

SEC. 48. Section 11991.5 is added to the Health and Safety Code, to read:

11991.5. (a) Charges shall be made for services rendered to each person under a county drug program plan in accordance with this section. Charges for the care and treatment of each client receiving service under a county drug plan shall not exceed the actual cost thereof as determined by the director in accordance with standard accounting practices. The director is not prohibited from including the amount of expenditures for capital outlay or the interest thereon, or both, in his or her determination of actual cost. The responsibility of a client, his or her estate, or his or her responsible relatives to pay the charges shall be determined in accordance with this section.

(b) Each county shall determine the liability of clients rendered services under a county drug program plan and of their estates or responsible relatives to pay the charges according to ability to pay. Each county shall collect the charges. The county shall establish and maintain policies and procedures for making the determinations of liability and collections, by collecting third-party payments and from other sources to the maximum extent practicable. Fees collected shall be retained at the local level and be applied toward the purchase of additional drug services.

(c) Services shall not be denied because of a client's ability or inability to pay. County-operated and contract providers of treatment services shall set and collect fees using methods approved by the county drug program administrator. All approved fee systems must conform to all of the following guidelines and criteria:

(1) The fee system used shall be equitable.

(2) The fee charged shall not exceed actual cost.

(3) Systems used shall consider the client's income and expenses.

(4) Each provider fee system shall be approved by the county drug program administrator. A description of each approved system shall be on file in the county board office.

(d) To ensure an audit trail, the county and or provider shall maintain all of the following records:

(1) Fee assessment schedules and collection records.

(2) Documents in each client's file showing client's income and expenses, and how each was considered in determining fees.

(e) Each county shall furnish the director with the information he or she shall require to enable the director to maintain a cost-reporting system of the costs of drug program services in the

county funded in whole or part by state-administered funds. The cost-reporting system established pursuant to this section shall supersede the requirements of paragraph (2) of subdivision (b) of Section 16366.7 of the Government Code for a quarterly fiscal reporting system.

SEC. 49. Section 11991.6 is added to the Health and Safety Code, to read:

11991.6. (a) The department shall annually audit the expenditures of any organization funded in whole or in part with funds administered by the department. The audits shall be in accordance with the Annual Audit Plan approved pursuant to Section 53135 of the Government Code.

(b) Counties may audit the expenditures of organizations funded in whole or in part with funds administered by the department.

(c) Counties shall repay to the department amounts of state and federal funds found, as a result of an audit, not to have been expended in accordance with the requirements set forth in this part, federal block grant law (PL 97-35), federal or state regulations pertaining to drug abuse services, and the conditions set forth in any contract or interagency agreement. For organizations or services funded by any combination of state, federal, or other public and private funds, where a clear audit trail which shows the source and application of the funds, is not maintained, repayment shall be determined by prorating audit findings between each funding source.

(d) For those audits conducted by the department, the director shall establish, administratively, policies and procedures for the resolution of disputed audit findings. The department shall consult with county drug administrators when proposing changes in procedures for the resolution of disputed audit findings.

(e) There is established in the State Treasury an Audit Repayment Trust Fund. All undisputed repayments of state funds made pursuant to subdivision (c) and all repayments of state funds resulting from audit resolution procedures established pursuant to subdivision (d) shall be deposited in this fund. Money in the fund shall be available for allocation when appropriated by the Legislature.

(f) The department may deny or withhold payments or advances of funds to counties if it finds by audit or otherwise, that a program, the county planning process, or the county plan or any part thereof, is not in compliance with the provisions of this part, or if the department determines that the county is not following its approved plan.

(g) Notwithstanding the provisions of subdivision (a) of Section 53134 of the Government Code, audits performed pursuant to this section shall be conducted by qualified state or local government auditors or independent public accountants in accordance with the financial and compliance requirements of Federal Standards for Audit of Governmental Organizations, Programs, Activities, and

Functions. These audits shall be completed no later than six months after completion of the audit fieldwork.

SEC. 50. Section 11991.7 is added to the Health and Safety Code, to read:

11991.7. The department shall review each county drug program plan to determine that it complies with the requirements of this part and with the standards adopted under this part.

SEC. 51. Section 11991.8 is added to the Health and Safety Code, to read:

11991.8. The department shall devise, not later than June 30, 1985, and implement, in consultation with the counties, a program reporting method to evidence county compliance with this part. Until that date, the department shall assure the "payment and cost-reporting system" shall not impair the implementation of the provisions of this part.

SEC. 52. Section 11991.9 is added to the Health and Safety Code, to read:

11991.9. Each county may establish standards which meet or exceed state standards for the treatment and operation of all county-operated and county-contracted drug treatment facilities and services, hereafter referred to as a "quality assurance system." A "quality assurance system" is a systematic approach for the evaluation of the quality of care which is designed to promote and maintain efficient, effective, and appropriate drug treatment services.

SEC. 53. Section 11992 of the Health and Safety Code is repealed.

SEC. 54. Section 11993 of the Health and Safety Code is amended to read:

11993. Notwithstanding any other provision of law, the state department may provide advance payment of federal funds, to the extent permitted by formal written agreement between the federal government and the state department or permitted by the terms of any federal grant administered by the state department, to private nonprofit or county drug abuse treatment and prevention programs which are under subcontract with the state department, or may provide advance payments of state funds to counties and private nonprofit agencies. The department shall develop a plan, approved by the Department of Finance, for determining and controlling advance payments.

SEC. 55. Section 11994 is added to the Health and Safety Code, to read:

11994. (a) In order to assure the quality of drug programs and expand the availability of funding resources, the department shall implement a program certification procedure for drug abuse treatment services funded under this part. The department, after consultation with the State Advisory Board on Drug Programs, the County Drug Program Administrators Association, and other interested organizations and individuals, shall develop standards for the drug abuse treatment services describing the minimal level of

service quality required of programs to qualify for and obtain state certification. The standards shall be excluded from the provisions of Section 11347.5 of the Government Code and the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Compliance with these standards shall be voluntary on the part of programs. For the purposes of Section 2626.2 of the Unemployment Insurance Code, certification shall be equivalent to program review.

(b) The department may charge a reasonable fee for the certification or renewal certification of a program which voluntarily requests the certification. The fee shall be set at a level sufficient to cover administrative costs of the program certification process incurred by the department. In calculating the administrative costs the department shall include staff salaries and benefits, related travel costs, and state operational and administrative costs.

(c) The department may contract with private individuals or agencies to provide technical assistance and training to qualify programs for state certification. The department may charge a fee for these services.

SEC. 57. Section 11996 is added to the Health and Safety Code, to read:

11996. The department shall encourage the development of educational courses that provide core knowledge concerning drug problems and programs to personnel working within drug programs.

SEC. 58. Section 11997 is added to the Health and Safety Code, to read:

11997. The department shall conduct onsite monitoring and reviews of individual county operated drug programs and drug program administration with emphasis on the review of county administration. Reviews of county administration and programs shall be based on standards developed by the department. The administrative reviews shall include sampling of all services, including those provided by county contract providers.

SEC. 59. Section 5606.5 of the Welfare and Institutions Code is repealed.

SEC. 60. Section 5650 of the Welfare and Institutions Code is amended to read:

5650. On or before September 15 of each year, the board of supervisors of each county, or boards of supervisors of counties acting jointly, shall adopt, and submit to the Director of Mental Health in the form and according to the procedures specified by the director, an annual update to the county Short-Doyle multiyear base plan for the next fiscal year for mental health services in the county or counties. The purpose of a county multiyear base plan and annual updates shall be to provide the basis for reimbursement pursuant to the provisions of this division and to coordinate services as specified in this chapter in such a manner as to avoid duplication, fragmentation of services, and unnecessary expenditures.

To achieve this purpose, a county Short-Doyle multiyear base plan and update shall provide for the most appropriate and economical use of all existing public and private agencies, licensed private institutions, and personnel. A county Short-Doyle multiyear base plan and update shall include the fullest possible and most appropriate participation by existing city Short-Doyle programs, local public and private general and psychiatric hospitals, state hospitals, city, county, and state health and welfare agencies, public guardians, mental health counselors, probation departments, physicians, psychologists, social workers, marriage, family and child counselors, public health nurses, psychiatric technicians, and all such other public and private agencies and personnel as are required to, or may agree to, participate in the county Short-Doyle plan.

For the purposes of this section, "marriage, family and child counselor" shall mean a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions which is equivalent to the instruction required for licensure on January 1, 1981.

The Director of Mental Health shall develop standard forms to be used by the counties in the submitting of the county plan. The forms shall include terms and conditions relative to county compliance with applicable laws, regulations, standards, and guidelines.

Notwithstanding any other provision of this part, no new county Short-Doyle plan shall be submitted by a county until September 15, 1983. Each county plan and budget approved for the 1981–82 fiscal year shall be updated on or before September 15 by the governing body of each county for the 1982–83, and 1983–84 fiscal years pursuant to regulations promulgated by the department. On or before September 15, 1983, the governing body of each county shall prepare and submit to the department a county Short-Doyle multiyear base plan and budget for the 1984–85 fiscal year which shall be annually updated on or before September 15 of each subsequent year pursuant to regulations promulgated by the department.

The department shall develop and implement the format and procedures for the preparation and submission of a multiyear base plan in order for the counties to have sufficient time prior to September 15, 1983, to prepare and submit their multiyear plan by September 15, 1983.

For the purposes of simplifying and reducing plan requirements, the Legislature intends that the annual update shall not duplicate any of the material in the base multiyear plan, but serve as a progress report both evaluating what has been accomplished over the past year and describing in more detail what will be accomplished in relation to each of the elements in the base plan during the coming year.

SEC. 61. Section 5651 of the Welfare and Institutions Code is amended to read:

5651. The county multiyear Short-Doyle base plan shall include the following:

(a) A description of the persons to be served.

(b) A description of all the comprehensive direct service programs to be provided to each target group. This shall include the state, county, and private resources providing the services, the cost of each comprehensive program, and the cost of each major program element within each comprehensive program.

(c) A description of the indirect and supportive services necessary for the operation of the county's mental health program. This shall include consultation and education services available to community agencies and professional personnel and information services to the general public, training research and evaluation. The plan shall also include the cost of each of these services.

(d) A projection of county needs for each target group commencing with the fiscal year for which the plan is adopted. This projection shall include a priority listing of the resources required to meet the needs of each target group, and the estimated cost of developing and acquiring these resources.

(e) A statement indicating which elements of the projection the county expects to accomplish under its plan.

(f) An estimate of the county's utilization of the state hospital by numbers of admissions and patient-days for the succeeding fiscal year. This requirement shall not apply to patients for whom county expenditures for services are not reimbursable by the state under this part.

The State Department of Mental Health shall provide the counties, to the extent possible, the information upon which to base this estimate.

No mentally disordered person shall be admitted to a state hospital prior to screening and referral by an agency designated by the county Short-Doyle plan to provide this service.

(g) A detailed presentation of all expected expenditures of county, state, and federal government funds and all anticipated public and private revenues.

(h) A description of the quality assurance system of the county mental health program as required by Section 5624 and a description of any other evaluation activities of the county mental health program such as client outcome evaluation, measurement of the availability and accessibility of services, and client satisfaction surveys.

(i) A description of the procedures used to insure citizen and professional involvement at all stages of the planning process leading to the formulation and adoption of the county Short-Doyle plan. Such procedures shall be reviewed and approved by the local mental health advisory board.

(j) The development of adequate and effective treatment and community support services for persons who are institutionalized or who have a high risk of becoming institutionalized, as described in

subdivision (a) of Section 5600, shall be the first priority for program development through fiscal year 1983–84. A special plan shall be prepared for the development of services to implement this priority. Within the plan, services shall be emphasized for first episode psychotics to prevent institutionalization whenever possible. The plan shall be designed to:

(1) Develop treatment services in the least restrictive environment as a fundamental patient right and as a means of minimizing institutionalization.

(2) Develop prevocational, vocational, and community skill training and sheltered employment opportunities.

(3) The department shall specify requirements for the special plan which shall include as a minimum:

(A) Performance measures.

(B) Case management services and coordination of residential placement.

(C) A continuum of residential living and treatment alternatives, including independent or nearly independent apartment or home living.

(D) Functional integration of mental health services with other human services such as rehabilitation, recreation, education, housing, transportation, and employment.

SEC. 62. Section 5652 of the Welfare and Institutions Code is amended to read:

5652. When the county Short-Doyle plan is submitted to the Director of the State Department of Mental Health it shall be accompanied by a document indicating the plan has been reviewed by the local mental health advisory board.

SEC. 63. Section 5701 of the Welfare and Institutions Code is amended to read:

5701. A single appropriation shall be made to the State Department of Mental Health for mental health services.

SEC. 64. Section 5708.5 of the Welfare and Institutions Code is amended to read:

5708.5. If any funds are allocated for new programs in categories other than the categories of mental illness, pursuant to a county Short-Doyle plan, two years after the date of approval of the budget for that plan, such funds shall be allocated for programs within the categories of mental illness.

SEC. 65. Section 5750 of the Welfare and Institutions Code is amended to read:

5750. The State Department of Mental Health shall administer this part and shall adopt standards for approval of mental health services, and rules and regulations necessary thereto; provided, however, that such standards, rules and regulations shall be adopted only after consultation with the Citizens Advisory Council and the California Conference of Local Mental Health Directors. Adoption of such standards, rules and regulations shall require approval by the California Conference of Local Mental Health Directors by majority

vote of those present at an official session.

If the conference refuses or fails to approve standards, rules, or regulations submitted to it by the State Department of Mental Health for its approval, the State Department of Mental Health may submit such standards, rules, or regulations to the conference at its next meeting, and if the conference again refuses to approve them, the matter shall be referred for decision to a committee composed of the Secretary of the Health and Welfare Agency, the Director of Mental Health, the President of the California Conference of Local Mental Health Directors, the Chairman of the Citizens Advisory Council, and a member designated by the State Advisory Health Council.

SEC. 66. Section 14021 of the Welfare and Institutions Code is amended to read:

14021. Notwithstanding any other provision of this chapter, health care shall include the following mental health services:

(a) Mental health services provided by a county.

(b) Mental health services provided in a Short-Doyle community mental health service or in a community mental health center organized under the Federal Community Mental Health Centers Act of 1963. No amount shall be paid for that portion of the total costs of care and services in a federally funded community mental health center which may be compensated by the United States government under the Community Mental Health Centers Act of 1963. No amount shall be paid to a Short-Doyle community mental health service or a federally funded community mental health center unless the Short-Doyle community mental health service or the federally funded community mental health center participates in a county mental health plan.

(c) Outpatient drug abuse services under the jurisdiction of the State Department of Alcohol and Drug Programs provided by a county provider certified under this chapter or a private provider certified under this chapter which has an approved contract with the county to provide covered drug abuse services.

(d) Inpatient hospital services in an institution for mental diseases to persons of all ages, provided that the institution for mental diseases is certified as a psychiatric hospital under Title XVIII of the federal Social Security Act and regulations issued thereunder.

Notwithstanding Section 14157, no money in the State Health Care Deposit Fund shall be expended for the purposes of this section unless the Legislature specifically appropriates money for the purposes of this section.

The amendment of this subdivision enacted at the 1972 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the preexisting law.

SEC. 67. The provisions of Section 60 of this act shall not become operative if AB 2381 is enacted and becomes effective on or before January 1, 1985, and amends Section 5650 of the Welfare and Institutions Code.

SEC. 68. The provisions of Section 61 of this act shall not become operative if AB 2381 is enacted and becomes effective on or before January 1, 1985, and repeals and adds Section 5651 to the Welfare and Institutions Code.

SEC. 69. The provisions of Section 64 of this act shall not become operative if AB 2381 is enacted and becomes operative on or before January 1, 1985, and repeals Section 5708.5 of the Welfare and Institutions Code.

CHAPTER 1330

An act relating to mental health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 25, 1984.]

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

SECTION 1. In enacting this legislation the Legislature finds and declares that it is a matter of statewide concern that the rights, benefits, and job security of state civil service employees should be protected. The protections accorded to state employees by this legislation are a part of and consistent with the Legislature's overall scheme to protect the rights of state employees.

SEC. 2. (a) Except as otherwise provided in Section 4, effective no later than June 30, 1985, the State Department of Mental Health shall transfer to designated local mental health programs the remainder of its administrative, fiscal, and program responsibilities for the state-funded mental health social services program. Local mental health programs still utilizing the services of state staff are hereby appropriated the existing mental health social services program allocation and costs for state services and, consistent with legislative intent, shall assume the responsibilities and provide for the assimilation of state staff into county employment.

In the event that the amount appropriated by this subdivision to local mental health programs is not adequate to reimburse a local mental health program for the necessary costs related to assimilation of state staff into county employment, the department shall reimburse the county for the additional necessary costs incurred by the local mental health program. Any reimbursement shall be on the basis of the ratios established by Section 5705 of the Welfare and Institutions Code.

It is recognized that if a local mental health program determines that the amount reimbursed by the department is not adequate to reimburse it for additional necessary costs incurred in assimilating state staff into county employment, the affected county may pursue

any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of the Revenue and Taxation Code.

(b) No later than September 1, 1984, the State Department of Mental Health shall transmit to each county currently utilizing the services of state-funded staff the budget and personnel information necessary to facilitate the county planning process. This information shall include all of the following:

(1) An approved line-item budget by the state of current mental health social services program allocation and costs in the county.

(2) The civil service classification, salary range and step, current salary, salary anniversary date, original date of employment, and earned benefits for each mental health social services program employee working in the county.

(3) A description of the mental health social services program staff assignments and workload within the county.

(4) An inventory of rental equipment and status of any leases.

(5) Information relating to claims for workers' compensation or industrial accidents.

(c) No later than December 1, 1984, the counties shall present to the State Department of Mental Health a plan approved by the board of supervisors which specifies how state funds and staff will be utilized to provide mental health social services and confirms the county's intent to assimilate state staff into county civil service positions. The plan shall include all of the following:

(1) A description of the continuing care program proposed by the county subsequent to the assumption of responsibilities and assimilation of staff.

(2) A county organization chart which depicts administrative lines of responsibility and staff distribution within the integrated program.

(3) A resolution, minute-order, or ordinance by the board of supervisors confirming the county's intent to transfer to county services those state employees who have indicated a willingness to transfer from state to county employment. The resolution shall be in accord with legislative intent that the county shall allow and provide for those state employees those employee benefits to which they were entitled or had accumulated as an employee of the State Department of Mental Health or provide these employees with comparable benefits provided for other county employees whose service as county employees is equal to the state service of the former employees of the State Department of Mental Health. These benefits include, but are not limited to, retirement benefits, seniority rights under civil service, accumulated vacation and sick leave.

(4) A statement of intent of the county's plan to continue rental service agreements or, if the county chooses, to discontinue.

(5) A description of the plan for acceptance of transfer of responsibility, including the closing or transfer of cases from the mental health social services program to the county.

(d) Notwithstanding any other provision of law, no employee transferred as a result of this act shall, as a result of the transfer, be required to hold any license not required prior to the transfer, as long as that person continues his or her employment in the same class, in the same program or facility.

SEC. 3. It is the intent of the Legislature that to the extent feasible the assimilation of state employees into county employment should be a subject of negotiation. Therefore, prior to the transfer of employees, the Director of Mental Health or his or her designee shall confer with representatives of the affected counties to negotiate the orderly transfer of state employees to county employment with the goal of reaching mutual agreement prior to the date of transfer. No agreement achieved through negotiation shall conflict with the requirements of this act.

SEC. 4. If a city and county has a charter which requires a vote of the electorate to effectuate the assimilation of state employees into the civil service system of the city and county, the necessary election shall be held at the same time as any regularly scheduled elections prior to January 1, 1986. If the electorate rejects the proposition submitted at the election, the State Department of Mental Health shall, subject to the conditions of the Budget Act, maintain the level of services provided by state employees to the city and county until an alternative method of providing the services can be negotiated and agreed upon by the department and the city and county.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to assure quality mental health services in California by reducing unnecessary and burdensome administration and thereby maximizing funding for treatment programs, it is necessary that this act take effect immediately.

CHAPTER 1331

An act to amend Section 2924f of, amend and repeal Section 2963 of, and add and repeal Section 2924e of, the Civil Code, relating to real property.

[Approved by Governor September 25, 1984 Filed with Secretary of State September 25, 1984.]

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

SECTION 1. Section 2924e is added to the Civil Code, to read:

2924e. (a) The beneficiary or mortgagee of any deed of trust or mortgage on real property containing one to four residential units may, with the written consent of the trustor or mortgagor that is

either effected through a signed and dated agreement which shall be separate from other loan and security documents or disclosed to the trustor or mortgagor in at least 10-point type, submit a written request by certified mail to the beneficiary or mortgagee of any lien which is senior to the lien of the requester, for written notice of any or all delinquencies of four months or more, in payments of principal or interest on any obligation secured by that senior lien notwithstanding that the loan secured by the lien of the requester is not then in default as to payments of principal or interest.

The request shall be sent to the beneficiary or mortgagee, or agent which it might designate for the purpose of receiving loan payments, at the address specified for the receipt of these payments, if known, or, if not known, at the address shown on the recorded deed of trust or mortgage.

(b) The request for notice shall identify the ownership or security interest of the requester, the date on which the interest of the requester will terminate as evidenced by the maturity date of the note of the trustor or mortgagor in favor of the requester, the name of the trustor or mortgagor and the name of the current owner of the security property if different from the trustor or mortgagor, the street address or other description of the security property, the loan number (if available to the requester) of the loan secured by the senior lien, the name and address to which notice is to be sent, and shall include or be accompanied by the signed written consent of the trustor or mortgagor, and a fee of forty dollars ($40). The request shall remain valid until withdrawn in writing and shall be applicable to all delinquencies as provided in this section, which occur prior to the date on which the interest of the requester will terminate as specified in the request or the expiration date, as appropriate. A request for notice shall be effective for five years from the mailing of the request or the recording of that request, whichever occurs later, and may be renewed within six months prior to its expiration date by sending the beneficiary or mortgagee, or agent, as the case may be, at the address to which original requests for notice are to be sent, a copy of the earlier request for notice together with a signed statement that the request is renewed and a renewal fee of fifteen dollars ($15). Upon timely submittal of a renewal request for notice, the effectiveness of the original request is continued for five years from the time when it would otherwise have lapsed. Succeeding renewal requests may be submitted in the same manner. The request for notice and renewals thereof shall be recorded in the office of the county recorder of the county in which the security real property is situated.

(c) Unless the delinquency has been cured, within 15 days following the end of four months from any delinquency in payments of principal or interest on any obligation secured by the senior lien which delinquency exists or occurs on or after 10 days from the mailing of the request for notice or the recording of that request, whichever occurs later, the beneficiary or mortgagee shall give

written notice to the requester of the fact of any delinquency and the amount thereof.

The notice shall be given by personal service, or by deposit in the mail, first class postage paid. Following the recording of any notice of default pursuant to Section 2924 with respect to the same delinquency, no notice or further notice shall be required pursuant to this section.

(d) If the beneficiary or mortgagee of any such senior lien fails to give notice to the requester as required in subdivision (c), and a subsequent foreclosure or trustee's sale of the security property occurs, the beneficiary or mortgagee shall be liable to the requester for any monetary damage due to the failure to provide notice within the time period specified in subdivision (c) which the requester has sustained from the date on which notice should have been given to the earlier of the date on which the notice is given or the date of the recording of the notice of default under Section 2924, and shall also forfeit to the requester the sum of three hundred dollars ($300). A showing by the beneficiary or mortgagee by a preponderance of the evidence that the failure to provide timely notice as required by subdivision (c) resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error shall be a defense to any liability for that failure.

(e) If any beneficiary or mortgagee, or agent which it had designated for the purpose of receiving loan payments, has been succeeded in interest by any other person, any request for notice received pursuant to this section shall be transmitted promptly to that person.

(f) Any failure to comply with the provisions of this section shall not affect the validity of a sale in favor of a bona fide purchaser or the rights of an encumbrancer for value and without notice.

(g) This section shall become operative on July 1, 1985, and shall remain in effect until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is chaptered before that date, deletes or extends that date.

The repeal of this section shall not affect the validity of requests for notice of delinquency filed before January 1, 1991.

SEC. 2. Section 2924f of the Civil Code is amended to read:

2924f. (a) As used in this section and Sections 2924g and 2924h "property" means real property or a leasehold estate therein.

(b) Except as provided in subdivision (c), before any sale of property can be made under the power of sale contained in any deed of trust or mortgage notice of the sale thereof must be given by posting a written notice of the time of sale and of the street address and the specific place at such street address where the sale will be held, and describing the property to be sold, at least 20 days before the date of sale in one public place in the city where the property is to be sold, if the property is to be sold in a city, or, if not, then in one public place in the judicial district in which the property is to be sold, and publishing a copy thereof once a week for the same period,

in some newspaper of general circulation published in the city in which the property or some part thereof is situated, if any part thereof is situated in a city, if not, then in some newspaper of general circulation published in the judicial district in which the property or some part thereof is situated, or in case no newspaper of general circulation is published in the city or judicial district, as the case may be, in some newspaper of general circulation published in the county in which the property or some part thereof is situated, or in case no newspaper of general circulation is published in the city or judicial district or county, as the case may be, in a newspaper of general circulation published in a county in this state which is contiguous to the county in which the property or some part thereof is situated. A copy of such notice of sale shall also be posted in some conspicuous place on the property to be sold at least 20 days before date of sale, provided that where possible and where not restricted for any reason, if the property is a single-family residence the posting shall be on a door of the residence, but if not possible or restricted then the notice shall be posted in a conspicuous place on the property and shall be recorded with the county recorder of the county in which the property or some part thereof is situated at least 14 days prior to the date of sale. The notice of sale shall contain the name, street address, and telephone number of the trustee or other person conducting the sale and shall contain the statement required by paragraph (3) of subdivision (c). In addition to any other description of the property, the notice shall describe the property by giving its street address, if any, or other common designation, if any; but if the property has no street address or other common designation, the notice shall contain the name and address of the beneficiary at whose request the sale is to be conducted and a statement that directions may be obtained pursuant to a written request submitted to the beneficiary within 10 days from the first publication of such notice. Directions shall be deemed reasonably sufficient to locate the property if information as to the location of the property is given by reference to the direction and approximate distance from the nearest crossroads, frontage road, or access road. If a legal description of the property is given, the validity of the notice and the validity of the sale shall not be affected by the fact that the street address, other common designation, name and address of the beneficiary, or the directions obtained therefrom are erroneous or that the street address, other common designation, name and address of the beneficiary or directions obtained therefrom are omitted. The term newspaper of general circulation as used herein is as defined in Article 1 (commencing with Section 6000) of Chapter 1, Division 7, Title 1 of the Government Code.

The notice of sale shall contain a statement of the total amount of the unpaid balance of the obligation secured by the property to be sold and reasonably estimated costs, expenses, and advances at the time of the initial publication of the notice of sale; provided, that the trustee shall incur no liability for any good faith error in stating the

proper amount. An inaccurate statement of such amount shall not affect the validity of any sale to a bona fide purchaser for value, nor shall the failure to post the notice of sale on a door as provided by this subdivision affect the validity of any sale to a bona fide purchaser for value.

(c) (1) The provisions of this subdivision shall only apply to deeds of trust or mortgages which contain a power of sale and which are secured by real property containing a single-family, owner-occupied residence wherein the obligation secured by the deed of trust or mortgage is contained in a contract for goods or services subject to the provisions of the Unruh Act (Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3).

(2) Except as otherwise expressly set forth in this subdivision, all other provisions of law relating to the exercise of a power of sale shall govern the exercise of such a power contained in a deed of trust or mortgage described in paragraph (1) of this subdivision.

(3) If any default of the obligation secured by a deed of trust or mortgage described in paragraph (1) of this subdivision has not been cured within 30 days after the recordation of the notice of default, the trustee or mortgagee shall mail to the trustor or mortgagor, at his or her last known address, a copy of the following statement:

YOU ARE IN DEFAULT UNDER A

_____ ,

(Deed of trust or mortgage)

DATED _____. UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A PUBLIC SALE. IF YOU NEED AN EXPLANATION OF THE NATURE OF THE PROCEEDING AGAINST YOU, YOU SHOULD CONTACT A LAWYER.

(4) All sales of real property pursuant to a power of sale contained in any deed of trust or mortgage described in paragraph (1) of this subdivision shall be held in the county where the residence is located and shall be made to the person making the highest offer. The trustee may receive offers during the 10-day period immediately prior to the date of sale and if any such offer is accepted in writing by both the trustor or mortgagor and the beneficiary or mortgagee prior to the time set for sale, the sale shall be postponed to a date certain and, prior to which the property may be conveyed by the trustor to the person making such offer according to its terms. Any such offer is revocable until accepted. The performance of such offer following acceptance, according to its terms by a conveyance of the property to the offeror shall operate to terminate any further proceeding under the notice of sale and it shall be deemed revoked.

(5) In addition to the trustee fee pursuant to Section 2924c, the trustee or mortgagee pursuant to a deed of trust or mortgage subject to this subdivision shall be entitled to charge an additional fee of fifty dollars ($50).

(6) This subdivision shall apply only to property on which notices of default were filed on or after the effective date of this subdivision.

SEC. 3. Section 2924f of the Civil Code is amended to read:

2924f. (a) As used in this section and Sections 2924g and 2924h "property" means real property or a leasehold estate therein.

(b) Except as provided in subdivision (c), before any sale of property can be made under the power of sale contained in any deed of trust or mortgage notice of the sale thereof must be given by posting a written notice of the time of sale and of the street address and the specific place at such street address where the sale will be held, and describing the property to be sold, at least 20 days before the date of sale in one public place in the city where the property is to be sold, if the property is to be sold in a city, or, if not, then in one public place in the judicial district in which the property is to be sold, and publishing a copy thereof once a week for the same period, in some newspaper of general circulation published in the city in which the property or some part thereof is situated, if any part thereof is situated in a city, if not, then in some newspaper of general circulation published in the judicial district in which the property or some part thereof is situated, or in case no newspaper of general circulation is published in the city or judicial district, as the case may be, in some newspaper of general circulation published in the county in which the property or some part thereof is situated, or in case no newspaper of general circulation is published in the city or judicial district or county, as the case may be, in a newspaper of general circulation published in a county in this state which is contiguous to the county in which the property or some part thereof is situated. A copy of such notice of sale shall also be posted in some conspicuous place on the property to be sold at least 20 days before date of sale, provided that where possible and where not restricted for any reason. If the property is a single-family residence the posting shall be on a door of the residence, but if not possible or restricted then the notice shall be posted in a conspicuous place on the property; however, if access is denied because a common entrance to the property is restricted by a guard gate or similar impediment, the property may be posted at that guard gate or similar impediment to any development community. Additionally, the notice of sale shall be recorded with the county recorder of the county in which the property or some part thereof is situated at least 14 days prior to the date of sale. The notice of sale shall contain the name, street address, and telephone number of the trustee or other person conducting the sale and shall contain the statement required by paragraph (3) of subdivision (c). In addition to any other description of the property, the notice shall describe the property by giving its street address, if any, or other common designation, if any; but if the property has no street address or other common designation, the notice shall contain the name and address of the beneficiary at whose request the sale is to be conducted and a statement that directions may be obtained pursuant to a written request submitted to the beneficiary within 10

days from the first publication of such notice. Directions shall be deemed reasonably sufficient to locate the property if information as to the location of the property is given by reference to the direction and approximate distance from the nearest crossroads, frontage road, or access road. If a legal description of the property is given, the validity of the notice and the validity of the sale shall not be affected by the fact that the street address, other common designation, name and address of the beneficiary, or the directions obtained therefrom are erroneous or that the street address, other common designation, name and address of the beneficiary or directions obtained therefrom are omitted. The term newspaper of general circulation as used herein is as defined in Article 1 (commencing with Section 6000) of Chapter 1 of Division 7 of Title 1 of the Government Code.

The notice of sale shall contain a statement of the total amount of the unpaid balance of the obligation secured by the property to be sold and reasonably estimated costs, expenses, and advances at the time of the initial publication of the notice of sale; provided, that the trustee shall incur no liability for any good faith error in stating the proper amount. An inaccurate statement of such amount shall not affect the validity of any sale to a bona fide purchaser for value, nor shall the failure to post the notice of sale on a door as provided by this subdivision affect the validity of any sale to a bona fide purchaser for value.

(c) (1) The provisions of this subdivision shall only apply to deeds of trust or mortgages which contain a power of sale and which are secured by real property containing a single-family, owner-occupied residence wherein the obligation secured by the deed of trust or mortgage is contained in a contract for goods or services subject to the provisions of the Unruh Act (Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3).

(2) Except as otherwise expressly set forth in this subdivision, all other provisions of law relating to the exercise of a power of sale shall govern the exercise of such a power contained in a deed of trust or mortgage described in paragraph (1) of this subdivision.

(3) If any default of the obligation secured by a deed of trust or mortgage described in paragraph (1) of this subdivision has not been cured within 30 days after the recordation of the notice of default, the trustee or mortgagee shall mail to the trustor or mortgagor, at his or her last known address, a copy of the following statement:

YOU ARE IN DEFAULT UNDER A

_____ ,

(Deed of trust or mortgage)

DATED _____. UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A PUBLIC SALE. IF YOU NEED AN EXPLANATION OF THE NATURE OF THE PROCEEDING AGAINST YOU, YOU SHOULD CONTACT A LAWYER.

(4) All sales of real property pursuant to a power of sale contained in any deed of trust or mortgage described in paragraph (1) of this subdivision shall be held in the county where the residence is located and shall be made to the person making the highest offer. The trustee may receive offers during the 10-day period immediately prior to the date of sale and if any such offer is accepted in writing by both the trustor or mortgagor and the beneficiary or mortgagee prior to the time set for sale, the sale shall be postponed to a date certain and, prior to which the property may be conveyed by the trustor to the person making such offer according to its terms. Any such offer is revocable until accepted. The performance of such offer following acceptance, according to its terms by a conveyance of the property to the offeror shall operate to terminate any further proceeding under the notice of sale and it shall be deemed revoked.

(5) In addition to the trustee fee pursuant to Section 2924c, the trustee or mortgagee pursuant to a deed of trust or mortgage subject to this subdivision shall be entitled to charge an additional fee of fifty dollars ($50).

(6) This subdivision shall apply only to property on which notices of default were filed on or after the effective date of this subdivision.

SEC. 4. Section 2963 of the Civil Code is amended to read:

2963. The disclosures required to both purchaser and vendor by this article are:

(a) An identification of the note or other credit documents or security documents and of the property which is the security for the transaction.

(b) A description of the terms of the promissory note or other credit documents or a copy of the note or other credit documents.

(c) Insofar as available, the principal terms and conditions of each recorded encumbrance which constitutes a lien upon the property which is or will be senior to the financing being arranged, including the original balance, the current balance, the periodic payment, any balloon payment, the interest rate (and any provisions with respect to variations in the interest rate), the maturity date, and whether or not there is any current default in payment on that encumbrance.

(d) A warning that, if refinancing would be required as a result of lack of full amortization under the terms of any existing or proposed loans, such refinancing might be difficult or impossible in the conventional mortgage marketplace.

(e) If negative amortization is possible as a result of any variable or adjustable rate financing being arranged, a clear disclosure of this fact and an explanation of its potential effect.

(f) In the event that the financing involves an all inclusive trust deed, the disclosure shall indicate whether the credit or security documents specify who is liable for payment or responsible for defense in the case of an attempted acceleration by a lender or other obligee under a prior encumbrance, and whether or not the credit or security documents specify the responsibilities and rights of the parties in the event of a loan prepayment respecting a prior

encumbrance which may result in a requirement for refinancing, a prepayment penalty, or a prepayment discount and, if such specification occurs, a recital of the provisions which apply.

(g) If the financing being arranged or any of the financing represented by a prior encumbrance could result in a balloon payment, or in a right in the lender or other obligee under such financing to require a prepayment of the principal balance at or after a stipulated date, or upon the occurrence of a stipulated event, a disclosure of the date and amount of any balloon payment or the amount which would be due upon the exercise of such right by the lender or obligee, and a statement that there is no assurance that new financing or loan extension will be available at the time of such occurrence.

(h) If the financing being arranged involves an all inclusive trust deed or real property sales contract, a disclosure of the party to whom payments will be made and who will be responsible for remitting these funds to payees under prior encumbrances and vendors under this transaction and a warning that, if that person is not a neutral third party, the parties may wish to agree to have a neutral third party designated for these purposes.

(i) A disclosure on the identity, occupation, employment, income, and credit data about the prospective purchaser, as represented to the arranger by the prospective purchaser; or, specifically, that no representation as to the credit-worthiness of the specific prospective purchaser is made by the arranger. A warning should also be expressed that Section 580b of the Code of Civil Procedure may limit any recovery by the vendor to the net proceeds of the sale of the security property in the event of foreclosure.

(j) A statement that loss payee clauses have been added to property insurance protecting the vendor, or that instructions have been or will be directed to the escrowholder, if any, in the transaction or the appropriate insurance carriers for addition of such loss payee clauses, or a statement that, if such provisions have not been made, that the vendor should consider protecting himself or herself by securing such clauses.

(k) A statement that a request for notice of default under Section 2924b has been recorded, or that, if it has not been recorded, the vendor should consider recording a request for notice of default.

(*l*) That a policy of title insurance has been obtained or will be obtained and be furnished to the vendor and purchaser, insuring the respective interests of the vendor and purchaser, or that the vendor and purchaser individually should consider obtaining a policy of title insurance.

(m) That a tax service has been arranged to report to the vendor whether property taxes have been paid on the property, and who will be responsible for the continued retention and compensation of tax service; or that the vendor should otherwise assure for himself that the taxes on the property have been paid.

(n) A disclosure whether the security documents on the financing

being arranged have been or will be recorded pursuant to Section 27280 of the Government Code, or a statement that the security of the vendor may be subject to intervening liens or judgments which may occur after the note is executed and before any resort to security occurs if the security documents are not recorded.

(o) If the purchaser is to receive any cash from the proceeds of the transaction, a statement of that fact, the amount, the source of the funds, and the purpose of the disbursement as represented by the purchaser.

(p) A statement that a request for notice of delinquency under Section 2924e has been made, or that, if it has not been made, the vendor should consider making a request for a notice of delinquency.

(q) This section shall become operative on July 1, 1985, and shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, pursuant to Section 9611 of the Government Code, Section 2963 of the Civil Code, as amended by Section 4 of Chapter 1217 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 5. Section 3 of this bill incorporates amendments to Section 2924f of the Civil Code proposed by both this bill and SB 1706. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 2924f of the Civil Code, and (3) this bill is enacted after SB 1706, in which case Section 2 of this bill shall not become operative.

CHAPTER 1332

An act to amend, repeal, and add Section 205.5 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 25, 1984.]

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

SECTION 1. Section 205.5 of the Revenue and Taxation Code is amended to read:

205.5. (a) Property which is owned by, and which constitutes the principal place of residence of, a veteran is exempted from taxation on that part of the full value of the residence that does not exceed forty thousand dollars ($40,000), if the veteran is blind in both eyes or has lost the use of two or more limbs as a result of injury or disease incurred in military service or that does not exceed one hundred thousand dollars ($100,000), if the veteran is totally disabled as a result of injury or disease incurred in military service. The forty thousand dollars ($40,000) exemption shall be sixty thousand dollars ($60,000) in the case of an eligible veteran whose household income as defined in Section 20504 does not exceed the amounts specified in Section 20585.

(b) For purposes of this section, "veteran" is defined as specified in subdivision (o) of Section 3 of Article XIII of the Constitution without regard to any limitation contained therein on the value of property owned by the veteran or the veteran's spouse.

(c) No veteran shall be eligible for this exemption unless he or she was a resident of California at the time of his or her entry into military or naval service, or unless he or she was a resident of the state on November 7, 1972, if he or she is blind or has lost the use of two or more limbs, or on January 1, 1975, if he or she is totally disabled; provided however, that no veteran who met a corresponding residency requirement under the law in effect prior to January 1, 1975, shall lose eligibility as the result of changes in residency requirement effective on January 1, 1975, or thereafter.

(d) Property which is owned by, and which constitutes the principal place of residence of, the unmarried surviving spouse of a veteran is exempt from taxation on that part of the full value of the residence that does not exceed forty thousand dollars ($40,000), in the case of a veteran who was blind in both eyes or had lost the use of two or more limbs, or one hundred thousand dollars ($100,000), in the case of a veteran who was totally disabled; provided, that the deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977; or provided that the veteran died from a disease which was service connected as determined by the Veterans Administration. The forty thousand dollars ($40,000) exemption shall be sixty thousand dollars ($60,000) in the case of an eligible unmarried surviving spouse whose household income as specified in Section 20504 does not exceed the amounts specified in Section 20585.

(e) As used in this section, "property which is owned by a veteran" or "property which is owned by the veteran's unmarried surviving spouse" includes all of the following:

(1) Property owned by the veteran with the veteran's spouse as a joint tenancy, tenancy in common or as community property.

(2) Property owned by the veteran or the veteran's spouse as separate property.

(3) Property owned with one or more other persons to the extent of the interest owned by the veteran, the veteran's spouse, or both the veteran and the veteran's spouse.

(4) Property owned by the veteran's unmarried surviving spouse with one or more other persons to the extent of the interest owned by the veteran's unmarried surviving spouse.

(5) So much of the property of a corporation as constitutes the principal place of residence of a veteran or a veteran's unmarried surviving spouse when the veteran, or the veteran's spouse, or the veteran's unmarried surviving spouse is a shareholder of the corporation and the rights of shareholding entitle one to the possession of property, legal title to which is owned by the corporation. The exemption provided by this paragraph shall be shown on the local roll and shall reduce the full value of the corporate property. Notwithstanding any provision of law or articles of incorporation or bylaws of a corporation described in this paragraph, any reduction of property taxes paid by the corporation shall reflect an equal reduction in any charges by the corporation to the person who, by reason of qualifying for the exemption, made possible the reduction for the corporation.

(f) For purposes of this section, being blind in both eyes means having a visual acuity of 5/200 or less; losing the use of a limb means that the limb has been amputated or its use has been lost by reason of ankylosis, progressive muscular dystrophies, or paralysis; and being totally disabled means that the United States Veterans Administration or the military service from which such veteran was discharged has rated the disability at 100 percent or has rated the disability compensation at 100 percent by reason of being unable to secure or follow a substantially gainful occupation.

(g) An exemption granted to a claimant in accordance with the provisions of this section shall be in lieu of the veteran's exemption provided by subdivisions (o), (p), and (r) of Section 3 of Article XIII of the Constitution and any other real property tax exemption to which the claimant may be entitled. No other real property tax exemption may be granted to any other person with respect to the same residence for which an exemption has been granted under the provisions of this section; provided, that if two or more veterans qualified pursuant to this section coown a property in which they reside, each is entitled to the exemption to the extent of his or her interest.

(h) This section shall remain in effect until January 1, 1991, and on that date is repealed, unless a later enacted statute, which is

chaptered on or before that date, deletes or extends that date.

SEC. 2. Section 205.5 is added to the Revenue and Taxation Code, to read:

205.5. (a) Property which is owned by, and which constitutes the principal place of residence of, a veteran is exempted from taxation on that part of the full value of the residence that does not exceed forty thousand dollars ($40,000), if the veteran is blind in both eyes, has lost the use of two or more limbs, or is totally disabled as a result of injury or disease incurred in military service. The exemption shall be sixty thousand dollars ($60,000) in the case of an eligible veteran whose household income as defined in Section 20504 does not exceed the amounts specified in Section 20585.

(b) For purposes of this section, "veteran" is defined as specified in subdivision (o) of Section 3 of Article XIII of the Constitution without regard to any limitation contained therein on the value of property owned by the veteran or the veteran's spouse.

(c) No veteran shall be eligible for this exemption unless he or she was a resident of California at the time of his or her entry into military or naval service, or unless he or she was a resident of the state on November 7, 1972, if he or she is blind or has lost the use of two or more limbs, or on January 1, 1975, if he or she is totally disabled; provided, however, that no veteran who met a corresponding residency requirement under the law in effect prior to January 1, 1975, shall lose eligibility as the result of changes in residency requirement effective on January 1, 1975, or thereafter.

(d) Property which is owned by, and which constitutes the principal place of residence of, the unmarried surviving spouse of a veteran is exempt from taxation on that part of the full value of the residence that does not exceed forty thousand dollars ($40,000); provided, that the deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977; or provided that the veteran died from a disease which was service connected as determined by the Veterans Administration. The exemption shall be sixty thousand dollars ($60,000) in the case of an eligible unmarried surviving spouse whose household income as specified in Section 20504 does not exceed the amounts specified in Section 20585.

(e) As used in this section, "property which is owned by a veteran" or "property which is owned by the veteran's unmarried surviving spouse" includes all of the following:

(1) Property owned by the veteran with the veteran's spouse as a joint tenancy, tenancy in common or as community property.

(2) Property owned by the veteran or the veteran's spouse as separate property.

(3) Property owned with one or more other persons to the extent of the interest owned by the veteran, the veteran's spouse, or both the veteran and the veteran's spouse.

(4) Property owned by the veteran's unmarried surviving spouse

with one or more other persons to the extent of the interest owned by the veteran's unmarried surviving spouse.

(5) So much of the property of a corporation as constitutes the principal place of residence of a veteran or a veteran's unmarried surviving spouse when the veteran, or the veteran's spouse, or the veteran's unmarried surviving spouse is a shareholder of the corporation and the rights of shareholding entitle one to the possession of property, legal title to which is owned by the corporation. The exemption provided by this paragraph shall be shown on the local roll and shall reduce the full value of the corporate property. Notwithstanding any provision of law or articles of incorporation or bylaws of a corporation described in this paragraph, any reduction of property taxes paid by the corporation shall reflect an equal reduction in any charges by the corporation to the person who, by reason of qualifying for the exemption, made possible the reduction for the corporation.

(f) For purposes of this section, being blind in both eyes means having a visual acuity of 5/200 or less; losing the use of a limb means that the limb has been amputated or its use has been lost by reason of ankylosis, progressive muscular dystrophies, or paralysis; and being totally disabled means that the United States Veterans Administration or the military service from which such veteran was discharged has rated the disability at 100 percent or has rated the disability compensation at 100 percent by reason of being unable to secure or follow a substantially gainful occupation.

(g) An exemption granted to a claimant in accordance with the provisions of this section shall be in lieu of the veteran's exemption provided by subdivisions (o), (p), and (r) of Section 3 of Article XIII of the Constitution and any other real property tax exemption to which the claimant may be entitled. No other real property tax exemption may be granted to any other person with respect to the same residence for which an exemption has been granted under the provisions of this section; provided, that if two or more veterans qualified pursuant to this section coown a property in which they reside, each is entitled to the exemption to the extent of his or her interest.

(h) This section shall become operative on January 1, 1991.

SEC. 3. The Controller shall report to the Legislature on the amount of claims made by county auditors under Section 16113 of the Government Code for compensation for property tax revenues lost by reason of the classification or exemption of property by this act. The report shall be made on or before the first day of October next following the operative date of this act for claims made under subdivision (a) of Section 16113 and shall be made on or before the first day of December next following the operative date of this act for claims made under subdivision (b) of Section 16113. The report shall be made in order that the Legislature may appropriate funds for the subventions required by Section 2229 of the Revenue and Taxation Code.

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

CHAPTER 1333

An act to add Section 51.3 to the Civil Code, and to amend Section 65915 of the Government Code, relating to housing.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 25, 1984.]

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

SECTION 1. Section 51.3 is added to the Civil Code, to read:

51.3. (a) The Legislature finds and declares that this section is essential to establish and preserve specially designed accessible housing for senior citizens. There are senior citizens who need special living environments and services, and find that there is an inadequate supply of this type of housing in the state.

(b) The Legislature finds and declares that different age limitations for senior citizen housing are appropriate in recognition of the size of a development in relationship to the community in which it is located.

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

(1) "Qualifying resident" or "senior citizen" means a person 62 years of age or older, or 55 years of age or older in a senior citizen housing development.

(2) "Senior citizen housing development" means a residential development consisting of at least 150 dwelling units in a standard metropolitan statistical area or at least 35 dwelling units in any other area which is developed for, or substantially rehabilitated or renovated for, senior citizens.

(3) "Housing" means all residential accommodations other than mobilehome developments.

(4) "Cohabitant" means persons who live together as husband and wife.

(d) The covenants, conditions, and restrictions or other documents or written policy shall not limit occupancy, residency, or use on the basis of age more proscriptively than to require that one person in residence be a senior citizen and that each other resident, if any, except the spouse or cohabitant of, or a person who resides

with and provides primary physical or economic support to, the senior citizen, shall be at least 45 years of age.

(e) The covenants, conditions, and restrictions or documents or written policy shall permit temporary residency by a person of less than 45 years of age for specified periods of not less than 60 days in any calendar year.

(f) Upon the death or dissolution of marriage, or upon hospitalization, or other prolonged absence of the qualifying resident, any other person who was a qualified permanent resident pursuant to the provisions of this section shall be entitled to continue in residence.

(g) The condominium, stock cooperative, limited-equity housing cooperative, planned development, or multiple-family residential rental property shall have been developed for, and initially been put to use as, housing for senior citizens, or shall have been substantially rehabilitated or renovated for, and immediately afterward put to use as, housing for senior citizens, as provided in this section.

The covenants, conditions, and restrictions or other documents or written policies applicable to any condominium, stock cooperative, limited-equity housing cooperative, planned development, or multiple-family residential property which contained age restrictions on January 1, 1984, shall be enforceable only to the extent permitted by this section until December 31, 1986, notwithstanding lower age restrictions contained in those documents or policies.

Existing documents or policies may be amended in order to be in conformity with this section, subject to any provision of law or contract governing the manner of amendment. Until December 31, 1986, failure to so amend such a document or policy shall not defeat its enforcement to the extent permitted by this section.

Any person who has the right to reside in, occupy, or use the housing subject to this section on January 1, 1985, shall not be deprived of the right to continue that residency, occupancy, or use as the result of the enactment of this section.

SEC. 2. Section 65915 of the Government Code is amended to read:

65915. (a) When a developer of housing agrees to construct at least (1) 25 percent of the total units of a housing development for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, or (2) 10 percent of the total units of a housing development for lower-income households, as defined in Section 50079.5 of the Health and Safety Code, or (3) 50 percent of the total dwelling units of a housing development for qualifying residents, as defined in Section 51.2 of the Civil Code, a city, county, or city and county shall either (1) grant a density bonus or (2) provide other incentives of equivalent financial value.

(b) A developer may submit to a city, county, or city and county a preliminary proposal for the development of housing pursuant to this section prior to the submittal of any formal requests for general plan amendments, zoning amendments, or subdivision map

approvals. The city, county, or city and county shall, within 90 days of receipt of a written proposal, notify the housing developer in writing of the manner in which it will comply with this section. The city, county, or city and county shall establish procedures for carrying out this section, which shall include legislative body approval of the means of compliance with this section.

(c) For the purposes of this chapter, "density bonus" means a density increase of at least 25 percent over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan. The density bonus shall not be included when determining the number of housing units which is equal to 10 or 25 percent of the total. The density bonus shall apply to housing developments consisting of five or more dwelling units.

(d) If a developer agrees to construct both 25 percent of the total units for persons and families of low or moderate income and 10 percent of the total units for lower-income households, the developer is entitled to only one density bonus under this section although the city, city and county, or county may, at its discretion, grant more than one density bonus.

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

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 5. This act shall become operative only if this bill and AB 3909 are both chaptered and become effective on January 1, 1985.

CHAPTER 1334

An act to amend Section 22658 of, and to add Section 12111 to, the Vehicle Code, relating to vehicle towing.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 25, 1984.]

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

SECTION 1. Section 12111 is added to the Vehicle Code, to read:

12111. (a) Except as provided in subdivision (b), no city or city and county may impose a business license tax for revenue-raising purposes on the operation of a tow car in its jurisdiction if the vehicle

tower maintains no fixed place of business within the boundaries of the city or city and county.

(b) A city or city and county may impose a business license tax upon a vehicle tower doing business within its jurisdiction who has no fixed place of business therein, if the license tax is graduated according to gross receipts attributable to work done within the city or city and county.

SEC. 2. Section 22658 of the Vehicle Code is amended to read:

22658. (a) The owner or person in lawful possession of any private property may, subsequent to notifying, by telephone or, if impractical, by the most expeditious means available, the city police or county sheriff, whichever is appropriate, cause the removal of a vehicle parked on the property to the nearest public garage, if (1) there is displayed, in plain view at all entrances to the property, a sign of a size specified by ordinance prohibiting public parking and indicating that vehicles will be removed at the owner's expense, and containing the telephone number of the local traffic law enforcement agency, or (2) the lot or parcel upon which the vehicle is parked is improved with a single family dwelling.

(b) The person causing removal of the vehicle shall, if the person knows or is able to ascertain from the registration records of the Department of Motor Vehicles the name and address of the registered and legal owner thereof, immediately give, or cause to be given, notice in writing to the registered and legal owner of the fact of the removal, the grounds for the removal, and indicate the place to which the vehicle has been removed. If the vehicle is stored in a public garage, a copy of the notice shall be given to the proprietor of the garage. The notice provided for in this section shall include the amount of mileage on the vehicle at the time of removal. If the person does not know and is not able to ascertain the name of the owner or for any other reason is unable to give the notice to the owner as provided in this section, the person causing removal of the vehicle shall comply with the requirements of subdivision (c) of Section 22853 relating to notice in the same manner as applicable to an officer removing a vehicle from private property.

(c) This section does not limit or affect any right or remedy which the owner or person in lawful possession of private property may have by virtue of other provisions of law authorizing the removal of a vehicle parked upon private property.

(d) The owner of a vehicle removed from private property pursuant to subdivision (a) may recover for any damage to the vehicle resulting from any intentional or negligent act of any person causing the removal of, or removing, the vehicle.

(e) Any owner or person in lawful possession of any private property causing the removal of a vehicle parked on that property is liable for any storage or towing charges whenever there has been a failure to post a sign if and as required by subdivision (a).

(f) Any owner or person in lawful possession of any private property causing the removal of a vehicle parked on that property

shall state the grounds for the removal of the vehicle if requested by the legal or registered owner of that vehicle. Any towing company that removes a vehicle from private property with the authorization of the property owner or the property owner's agent shall not be held responsible in any situation relating to the validity of the removal. Any towing company that removes the vehicle under this section shall be responsible for (1) any damage to the vehicle in the transit and subsequent storage of the vehicle pursuant to subdivision (d) and, (2) the removal of a vehicle other than the vehicle specified by the owner or other person in lawful possession of the private property.

(g) Possession of any vehicle under this section shall be deemed to arise when a vehicle is removed from private property and is in transit.

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

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1335

An act to add Section 11033.5 to, to add Chapter 3.5 (commencing with Section 8260) to Division 1 of Title 2 of, to amend and renumber Chapter 2 (commencing with Section 10300) of Division 2 of Title 2 of, and to repeal Chapter 3 (commencing with Section 10400) of Division 2 of Title 2 of, the Government Code, relating to state government, and making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 25, 1984.]

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

SECTION 1. Chapter 3.5 (commencing with Section 8260) is added to Division 1 of Title 2 of the Government Code, to read:

CHAPTER 3.5. LAW REFORM

Article 1. Commission on Uniform State Laws

8260. There is in the state government, the Commission on Uniform State Laws.

8261. The commission consists of one Member of the Senate, appointed by the Committee on Rules, one Member of the Assembly, appointed by the Speaker, six additional members, appointed by the Governor, and the Legislative Counsel.

The Members of the Legislature appointed to the commission shall serve at the pleasure of the appointing power and shall participate in the activities of the commission to the extent that the participation is not incompatible with their respective positions as Members of the Legislature. For the purposes of this article, the Members of the Legislature shall constitute a joint interim investigating committee on the subject of this article and shall have the powers and duties imposed upon those committees by the Joint Rules of the Senate and Assembly.

8262. Each appointed commissioner shall be any of the following:

(a) A member in good standing of the bar of this state.

(b) A person admitted to practice before the highest court of any other state of the United States.

(c) A judge of a court of record in this state.

8263. Each appointed commissioner shall hold office for a term of four years and until the appointment and qualification of his successor.

8264. Upon the death, resignation or refusal to serve of any appointed commissioner, the Governor shall make an appointment to fill the vacancy so caused. The new appointment shall be for the unexpired term.

8265. A commissioner is eligible for reappointment.

8266. No member of the commission shall receive any compensation for his or her services as commissioner.

8267. The commission may expend in accordance with law for expenses and actual disbursements in effectuating the objects of this article, including travel expenses, all money made available for its use. The commission may participate in the work of the National Conference of Commissioners on Uniform State Laws, and may pay, from the sums available for the support of the commission, its proportionate share of the expenses of the National Conference of Commissioners on Uniform State Laws. This proportionate share shall be based upon the population of the state in comparison to that of other states.

8268. The commission shall meet at some place in the state at least once in every two years. It shall elect one of its members as chairperson and another as secretary, who shall hold their respective offices for a term of two years, and until their successors are elected and qualified.

8269. The commissioners shall attend the meetings of the National Conference of Commissioners on Uniform State Laws. The attendance of a commissioner at this meeting shall be deemed an excused or authorized absence from his or her employment.

8270. The commissioners shall do all in their power to promote uniformity in state laws upon all subjects where uniformity is deemed desirable and practicable.

8271. The commission shall bring about, as far as practicable, the passage of the various uniform acts recommended by the national conference, and shall devise and recommend such additional legislation or other or further course of action as is deemed necessary to accomplish the purposes of this article.

8272. The commission shall report to the Legislature from time to time as the commission deems desirable and practicable, giving an account of its transactions and its advice and recommendations for legislation.

8273. Upon request of the commission, the Legislative Counsel may assist the commission in performing its duties and, for that purpose, may authorize the expenditure of funds appropriated for the support of the Legislative Counsel.

SEC. 2. Chapter 2 (commencing with Section 10300) of Division 2 of Title 2 of the Government Code is amended and renumbered to read:

Article 2. California Law Revision Commission

8280. There is created in the State Government the California Law Revision Commission.

8281. The commission consists of one Member of the Senate appointed by the Committee on Rules, one Member of the Assembly appointed by the Speaker, and seven additional members appointed by the Governor with the advice and consent of the Senate. The Legislative Counsel shall be an ex officio member of the commission.

The Members of the Legislature appointed to the commission shall serve at the pleasure of the appointing power and shall participate in the activities of the commission to the extent that the participation is not incompatible with their respective positions as Members of the Legislature. For the purposes of this article, those Members of the Legislature shall constitute a joint interim investigating committee on the subject of this article and as a joint interim investigating committee shall have the powers and duties imposed upon those committees by the Joint Rules of the Senate and Assembly.

The members appointed by the Governor shall be appointed for a term of four years and shall hold office until the appointment and qualification of their successors. The terms of the members first appointed shall not commence earlier than October 1, 1953, and shall expire as follows: four on October 1, 1955, and three on October 1, 1957. When a vacancy occurs in any office filled by appointment by the Governor, he or she shall appoint a person to the office, who shall hold office for the balance of the unexpired term of his or her predecessor.

8282. (a) The members of the commission shall serve without compensation, except that each member appointed by the Governor

shall receive fifty dollars ($50) for each day's attendance at a meeting of the commission.

(b) In addition, each member shall be allowed actual expenses incurred in the discharge of his or her duties, including travel expenses.

8283. The commission shall select one of its members chairperson.

8284. The commission may appoint an executive secretary and fix his or her compensation, in accordance with law.

8285. The commission may employ and fix the compensation, in accordance with law, of such professional, clerical and other assistants as may be necessary.

8286. The material of the State Library shall be made available to the commission. All state agencies, and other official state organizations, and all persons connected therewith shall give the commission full information, and reasonable assistance in any matters of research requiring recourse to them, or to data within their knowledge or control.

8287. The Board of Governors of the State Bar shall assist the commission in any manner the commission may request within the scope of its powers or duties.

8288. No employee of the commission and no member appointed by the Governor shall, with respect to any proposed legislation concerning matters assigned to the commission for study pursuant to Section 8293, advocate the passage or defeat of the legislation by the Legislature or the approval or veto of the legislation by the Governor or appear before any committee of the Legislature as to such matters unless requested to do so by the committee or its chairperson. In no event shall an employee or member of the commission appointed by the Governor advocate the passage or defeat of any legislation or the approval or veto of any legislation by the Governor, in his or her official capacity as an employee or member.

8289. The commission shall, within the limitations imposed by Section 8293:

(a) Examine the common law and statutes of the state and judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms.

(b) Receive and consider proposed changes in the law recommended by the American Law Institute, the National Conference of Commissioners on Uniform State Laws, any bar association or other learned bodies.

(c) Receive and consider suggestions from judges, justices, public officials, lawyers, and the public generally as to defects and anachronisms in the law.

(d) Recommend, from time to time, such changes in the law as it deems necessary to modify or eliminate antiquated and inequitable rules of law, and to bring the law of this state into harmony with modern conditions.

8290. The commission shall recommend the express repeal of all

statutes repealed by implication, or held unconstitutional by the Supreme Court of the state or the Supreme Court of the United States.

8291. The commission shall submit its reports, and its recommendations as to revision of the laws, to the Governor and the Legislature, and shall distribute them to the Governor, the Members of the Legislature, and the heads of all state departments.

8292. The commission may, within the limitations imposed by Section 8293, include in its report the legislative measures proposed by it to effect the adoption or enactment of the proposed revision. The reports may be accompanied by exhibits of various changes, modifications, improvements, and suggested enactments prepared or proposed by the commission with a full and accurate index thereto.

8293. The commission shall file a report at each regular session of the Legislature which shall contain a calendar of topics selected by it for study, including a list of the studies in progress and a list of topics intended for future consideration. After the filing of its first report the commission shall confine its studies to those topics set forth in the calendar contained in its last preceding report which are thereafter approved for its study by concurrent resolution of the Legislature. The commission shall also study any topic which the Legislature, by concurrent resolution, refers to it for the study.

8294. The reports, exhibits, and proposed legislative measures shall be printed by the State Printing Office under the supervision of the commission. The exhibits shall be so printed as to show in the readiest manner the changes and repeals proposed by the commission.

8295. The commission shall confer and cooperate with any legislative committee on revision of the law and may contract with any the committee for the rendition of service, by either for the other, in the work of revision.

8296. The commission may cooperate with any bar association or other learned, professional, or scientific association, institution or foundation in any manner suitable for the fulfillment of the purposes of this article.

8297. The commission may, with the approval of the Director of General Services, enter into, amend and terminate contracts with colleges, universities, schools of law or other research institutions, or with qualified individuals for the purposes of research.

SEC. 3. Chapter 3 (commencing with Section 10400) of Division 2 of Title 2 of the Government Code is repealed.

SEC. 4. Section 11033.5 is added to the Government Code, to read:

11033.5. Sections 11032 and 11033 shall not apply to any member of the Commission on Uniform State Laws.

SEC. 5. (a) As used in this section:

(1) "Commission on Uniform State Laws (new)" means the Commission on Uniform State Laws created by Section 8260 of the

Government Code.

(2) "Commission on Uniform State Laws (former)" means the commission abolished by operation of Section 3 of this act.

(b) All persons appointed by the Governor to the Commission on Uniform State Laws (former) shall continue in office as members of the Commission on Uniform State Laws (new) until the expiration of their terms unless the member earlier dies, resigns, or is removed from office.

(c) All records, supplies, equipment, and property of the Commission on Uniform State Laws (former) shall be transferred to the Commission on Uniform State Laws (new).

(d) All contracts made by the Commission on Uniform State Laws (former) shall continue in effect on the same terms and conditions without change, except that the Commission on Uniform State Laws (new) shall be substituted for the Commission on Uniform State Laws (former) and any funds encumbered to pay these contracts shall continue to be available to the new commission for the payment of the contracts on the same terms and conditions as previously available to the former commission. Any other encumbrance of funds, including but not limited to encumbrances for printing, shall continue in effect without change.

SEC. 6. There is hereby appropriated from the General Fund to the Controller the amount of two hundred seventy thousand dollars ($270,000) for allocation as follows:

(a) California Law Revision Commission..... $225,000
(b) Commission on Uniform State Laws ..... $ 45,000

CHAPTER 1336

An act to amend Section 14132 of, and to add and repeal Section 14115.6 to, the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 25, 1984]

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

SECTION 1. Section 14115.6 is added to the Welfare and Institutions Code, to read:

14115.6. The department shall establish a pilot project under which a nurse practitioner may bill independently for services provided in a skilled nursing facility or an intermediate care facility, as defined in Section 1250 of the Health and Safety Code. Nurse practitioners shall be compensated by the department for those services which would be compensable had the services been provided by a physician. If a nurse practitioner chooses to bill

independently for these services, the department shall make the payment for the services directly to the nurse practitioner. The department shall insure that payments made to providers who employ nurse practitioners who bill separately are adjusted to reflect this separation so as not to increase the financial obligation incurred by the Medi-Cal program. The department shall establish a reimbursement rate for nurse practitioners who choose to bill independently pursuant to this section.

The department shall submit a report to the Legislature on or before June 30, 1987, concerning the implementation of this section.

Nurse practitioners shall, however, continue to bill through physicians for Medicare patients until such time as relevant federal regulations are changed or until waivers of relevant federal regulations are obtained.

The department shall seek any federal waivers necessary to avoid conflict with federal law. If a waiver is necessary, the department may, until the waiver is obtained, limit the implementation of this section to the extent that federal matching funds are available.

This section shall remain in effect until June 30, 1987, and as of that date is repealed, unless a later enacted statute chaptered prior to that date extends or deletes that date.

SEC. 2. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an

outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician

services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. Such services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, in-home medical care services shall include utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

(u) Home and community-based services approved by the federal Department of Health and Human Services may be covered to the

extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director may seek waivers for any or all home and community-based services approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost-effectiveness of services provided pursuant to this subdivision.

SEC. 3. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to a determination by the federal Food and Drug Administration that the drug has not been found unsafe or ineffective, and can lawfully be marketed under the United States Food, Drug and Cosmetic Act (21 U.S.C. Sec. 301 et seq.), subject to the utilization controls set forth in Sections 14133 and 14133.1, and subject to subdivision (c) of Section 14196.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray

services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy,

speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. Such services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared-or-congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

(u) Home and community-based services approved by the United States Department of Health and Human Services may be covered to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director may seek waivers for

any or all home and community-based services approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 4. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental

services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization

controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. Such services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, in-home medical care services shall include utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

(u) Home and community-based services approved by the federal Department of Health and Human Services may be covered to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director may seek waivers for any or all home and community-based services approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the

federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

SEC. 5. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to a determination by the federal Food and Drug Administration that the drug has not been found unsafe or ineffective, and can lawfully be marketed under the United States Food, Drug and Cosmetic Act (21 U.S.C. Sec. 301 et seq.), subject to the utilization controls set forth in Sections 14133 and 14133.1, and subject to subdivision (c) of Section 14196.

(e) Outpatient dialysis services and home hemodialysis services,

including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical

supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. Such services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent

that federal financial participation is available.

(u) Home and community-based services approved by the United States Department of Health and Human Services may be covered to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director may seek waivers for any or all home and community-based services approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 6. (a) Section 3 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by both this bill and AB 3888. It shall only become operative if (1) both bills are enacted and become effective January 1, 1985, (2) each bill amends Section 14132 of the Welfare and Institutions Code, and (3) AB 3021 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 3888, in which case Sections 2, 4, and 5 of this bill shall not become operative.

(b) Section 4 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by both this bill and AB 3021.

It shall only become operative if (1) both bills are enacted and become effective January 1, 1985, (2) each bill amends Section 14132 of the Welfare and Institutions Code, (3) AB 3888 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 3021, in which case Sections 2, 3, and 5 of this bill shall not

become operative.

(c) Section 5 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by this bill, AB 3021, and AB 3888. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1985, (2) all three bills amend Section 14132 of the Welfare and Institutions Code, (3) this bill is enacted after AB 3021 and AB 3888, in which case Sections 2, 3, and 4 of this bill shall not become operative.

CHAPTER 1337

An act to amend Section 15512 of, to repeal Section 15511 to add Section 15516 to, and to repeal Section 15511 of, the Fish and Game Code, relating to diseased plants and animals.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 25, 1984.]

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

SECTION 1. Section 15511 of the Fish and Game Code is repealed.

SEC. 2. Section 15512 of the Fish and Game Code is amended to read:

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

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

(c) The result of the arbitration or the amount settled between the owner and the department, reduced by the value determined by the department of any replacement stock provided under subdivision (b), may be submitted as a claim by the owner to the Board of Control pursuant to Section 15513.

SEC. 3. Section 15516 is added to the Fish and Game Code, to

read:

15516. The owner of an aquaculture product who does not diligently pursue the eradication of a disease from its facility when ordered to do so by the director shall be responsible for paying to the director the full costs of the department for all disease eradication efforts conducted by the department to eradicate the disease. Payment of the costs under this section shall not excuse compliance with the provisions of law, regulations of the commission, and orders of the director, nor be a defense in any criminal or civil proceedings.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1338

An act to amend Sections 443.31 and 443.34 of the Health and Safety Code, and to amend Sections 14005.13 and 14300 of the Welfare and Institutions Code, relating to health care.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 25, 1984.]

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

SECTION 1. Section 443.31 of the Health and Safety Code, as added by Senate Bill No. 181 of the 1983–84 Regular Session of the Legislature, is amended to read:

443.31. Every organization which operates, conducts, or maintains a health facility and the officers thereof, shall make and file with the office, at such times as the office shall require, all of the following reports on forms specified by the office which shall be in accord where applicable with the systems of accounting and uniform reporting required by this part:

(a) A balance sheet detailing the assets, liabilities, and net worth of the health facility at the end of its fiscal year.

(b) A statement of income, expenses, and operating surplus or deficit for the annual fiscal period, and a statement of ancillary utilization and patient census.

(c) A statement detailing patient revenue by payor and revenue center except that hospitals authorized to report as a group pursuant to subdivision (d) of Section 443.34 are not required to report revenue by revenue center.

(d) A statement detailing changes in financial position and capital

financing status, including, but not limited to, ongoing and new capital expenditures and depreciation.

(e) A statement reporting the information required in subdivisions (a) and (b) for each separately licensed health facility operated, conducted, or maintained by the reporting organization.

(f) The office shall consult with the County Hospital Committee of the California Hospital Association, the County Supervisors Association of California, and the California Association of Public Hospitals to improve the accuracy of indigent care revenue reporting and shall present legislative or regulatory recommendations for such improvements by March 30, 1985.

(g) A Hospital Discharge Abstract Data Record which includes all of the following:

(1) Date of birth.
(2) Sex.
(3) Race.
(4) Zip code.
(5) Admission date.
(6) Source of admission.
(7) Type of admission.
(8) Discharge date.
(9) Principal diagnosis.
(10) Other diagnoses.
(11) Principal procedure and date.
(12) Other procedures and dates.
(13) Total charges.
(14) Disposition of patient.
(15) Expected source of payment.

It is the expressed intent of the Legislature that the patient's rights of confidentiality shall not be violated in any manner.

A hospital or its designee shall annually file the Hospital Discharge Abstract Data Record not later than six months after the end of the calendar year. A hospital may submit the Hospital Discharge Abstract Data Record in a computer tape format, and a hospital shall use coding from the International Classification of Diseases in reporting diagnoses and procedures.

SEC. 2. Section 443.34, of the Health and Safety Code, as added by Senate Bill No. 181 of the 1983–84 Regular Session of the Legislature, is amended to read:

443.34. (a) On and after January 1, 1986, those systems of health facility accounting and auditing formerly approved by the California Health Facilities Commission shall remain in full force and effect for use by health facilities but shall be maintained by the office with the advice of the Health Policy and Data Advisory Commission.

(b) The office, with the advice of the commission, shall allow and provide, in accordance with appropriate regulations, for modifications in the accounting and reporting systems for use by health facilities in meeting the requirements of this part if the modifications are necessary to do any of the following:

(1) To correctly reflect differences in size of, provision of, or payment for, services rendered by health facilities.

(2) To correctly reflect differences in scope, type, or method of provision of, or payment for, services rendered by health facilities.

(3) To avoid unduly burdensome costs for those health facilities in meeting the requirements of differences pursuant to paragraphs (1) and (2).

(c) Modifications to discharge data reporting requirements. The office, with the advice of the commission, shall allow and provide, in accordance with appropriate regulations, for modifications to discharge data reporting format and frequency requirements if these modifications will not impair the office's ability to process the data or interfere with the purposes of this part. This modification authority shall not be construed to permit the office to administratively require the reporting of discharge data items not specified in Section 443.31.

(d) Reporting provisions for health facilities. The office, with the advice of the commission, shall establish specific reporting provisions for health facilities that receive a preponderance of their revenue from associated comprehensive group-practice prepayment health care service plans. These health facilities shall be authorized to utilize established accounting systems, and to report costs and revenues in a manner which is consistent with the operating principles of such plans and with generally accepted accounting principles. When these health facilities are operated as units of a coordinated group of health facilities under common management, they shall be authorized to report as a group rather than as individual institutions. As a group, they shall submit a consolidated income and expense statement.

The office, with the advice of the commission, shall adopt comparable modifications to the financial reporting requirements of this part for county hospital systems consistent with the purposes of this part.

SEC. 3. Section 14005.13 of the Welfare and Institutions Code is amended to read:

14005.13. (a) Notwithstanding Section 14005.12, when an individual residing in a long-term care facility would incur a share of cost for services under this chapter due to income which exceeds that allowed for the incidental and personal needs of the individual, a specified portion of the individual's earned income from therapeutic wages shall be exempt. Therapeutic wages are wages earned by the individual under all of the following conditions:

(1) A physician who does not have a financial interest in the long-term care facility in which the individual resides, and who is in charge of the individual's case prescribes work as therapy for the individual.

(2) The individual must be employed within the same long-term care facility where he or she resides.

(3) The individual's employment does not displace any existing

employees.

(4) The individual has resided in a long-term care facility for a continuous period commencing at least five years prior to the date of the addition of this section as originally adopted during the 1983–84 Regular Session.

(b) The amount of earned income from therapeutic wages which shall be exempt shall be the lesser of 70 percent of the gross therapeutic wages or 70 percent of the maintenance level for a noninstitutionalized person or family of corresponding size as described in subdivision (b), (c), or (e) of Section 14005.12.

(c) The provisions of this section shall be given retroactive effect for the period commencing June 1, 1983.

(d) This section shall not become operative unless and until the necessary waivers are obtained from the United States Department of Health and Human Services.

(e) The director shall adopt regulations implementing this section as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the department in order to implement this section shall not be subject to the review and approval of the Office of Administrative Law. These regulations shall become effective immediately upon filing with the Secretary of State.

SEC. 4. Section 14300 of the Welfare and Institutions Code is amended to read:

14300. The department shall publish a notice of intent to contract at least 60 days prior to the effective date of any initial or renewed contract. The notice shall appear in local newspapers circulated in the service areas of the prepaid health plan. The notice shall announce the department's intent to contract and any person affected by the contract shall have the opportunity to request that a public hearing be held. The request for public hearing shall be accompanied by an explanation of the reason for the request and a description of problems or questions regarding the plan's ability to meet its contractual obligations. A hearing shall be held by the department if the director determines that the request is reasonable and warrants a full public hearing. A request shall be considered reasonable if there is a question regarding the plan's ability to meet its contractual obligations.

No contract shall be signed by the department until the department determines that the plan has the ability to fully comply with its contractual obligations.

SEC. 5. Sections 1 and 2 of this act shall become operative only if Senate Bill 181 of the 1983–84 Regular Session of the Legislature is

chaptered and becomes effective and as enacted adds Sections 443.31 and 443.34 to the Health and Safety Code and, in that case, Sections 1 and 2 of this act shall become operative January 1, 1985.

CHAPTER 1339

An act to add Chapter 12 (commencing with Section 76000) to Title 8 of, and to repeal Sections 68073.1, 68073.2, 68073.3, 68073.4, and 68073.6 of, the Government Code, and to amend Section 1464 of, and to repeal Section 1206.8 of, the Penal Code, and to amend Section 42008 of the Vehicle Code, relating to justice facilities.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 25, 1984.]

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

SECTION 1. Section 68073.1 of the Government Code is repealed.

SEC. 2. Section 68073.2 of the Government Code is repealed.

SEC. 3. Section 68073.3 of the Government Code is repealed.

SEC. 4. Section 68073.4 of the Government Code is repealed.

SEC. 5. Section 68073.6 of the Government Code is repealed.

SEC. 6. Chapter 12 (commencing with Section 76000) is added to Title 8 of the Government Code, to read:

CHAPTER 12. SURCHARGES AND ASSESSMENTS FOR JUSTICE FACILITY CONSTRUCTION

76000. (a) In each county, provided that the board of supervisors has adopted a resolution stating that the provisions of this section and Section 76001, 76002, 76004, or 76005 are necessary to the establishment of adequate facilities in the county, the following surcharges and assessments shall be collected, except that a resolution adopted pursuant to Section 76004 may limit the collection to the assessments specified in paragraph (2) and a resolution adopted pursuant to Section 76005 shall limit the collection to the assessments specified in paragraph (2):

(1) With respect to each fund established, for every parking offense where a fine or forfeiture is imposed, a surcharge of one dollar and fifty cents ($1.50) shall be included in the fine or forfeiture.

The judges of the county shall increase the bail schedule amounts as appropriate to reflect the surcharge provided for by this subdivision.

In those cities, districts, or other issuing agencies which elect to receive, deposit, accept forfeitures, and otherwise process the posting of bail for parking violations pursuant to subdivision (3) of

Section 1463 of the Penal Code, that city, district, or issuing agency shall observe the increased bail amounts as established by the court reflecting the surcharge provided for by this paragraph.

(2) With respect to each fund established, there shall be levied an additional amount of one dollar ($1) for every ten dollars ($10) or fraction thereof which shall be collected together with and in the same manner as the assessment established by Section 1464 of the Penal Code, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to paragraph (iii) of subdivision (3) of Section 258 of the Welfare and Institutions Code. This amount shall be deposited with the county treasurer and placed in the fund established pursuant to Section 76001, 76002, 76004, or 76005.

(b) The surcharge and assessment increase imposed pursuant to this section shall continue so long as deposits to the funds are required pursuant to Section 76001, 76002, 76004, or 76005.

(c) No county, city and county, city, district or other issuing agency shall be required to contribute revenues to any fund in excess of those revenues generated from the surcharges and assessments established in the resolution adopted pursuant to this section.

76001. (a) All courtroom construction in the County of Los Angeles which utilizes moneys from the Robbins Courthouse Construction Fund or moneys borrowed against the Robbins Courthouse Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area and the Los Cerritos Municipal Court District, until the time that the County of Los Angeles has spent a total of at least forty-three million dollars ($43,000,000) on courthouse construction within the San Fernando Valley Statistical Area and at least eight million dollars ($8,000,000) within the Los Cerritos Municipal Court District for the Bellflower courthouse.

(b) All courtroom construction in the County of Los Angeles which utilizes moneys from the Robbins Courthouse Construction Fund or moneys borrowed against the Robbins Courthouse Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area, within the boundaries of the East Los Angeles Municipal Court District, within the boundaries of the Los Cerritos Municipal Court District, within the Downey Municipal Court District, within the community of Hollywood, until the time that the County of Los Angeles has fulfilled the requirements of subdivision (a) and has additionally spent at least sixteen million five hundred thousand dollars ($16,500,000) on courthouse construction within the East Los Angeles Municipal Court District, has spent at least ten million dollars ($10,000,000) on courthouse construction within the Downey Municipal Court District, has commenced construction on a courthouse with at least six courtrooms in the

community of Reseda, has commenced construction on a courthouse with at least two courtrooms in the community of Hollywood, and has commenced construction on a courthouse for the superior court with at least 12 courtrooms in the North Hollywood Redevelopment Project Area of the City of Los Angeles.

(c) All courtroom construction in the County of Los Angeles which utilizes moneys from the Robbins Courthouse Construction Fund or moneys borrowed against the Robbins Courthouse Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area, within the boundaries of the East Los Angeles Municipal Court District, within the boundaries of the Los Cerritos Municipal Court District, within the Downey Municipal Court District, within the community of Hollywood, within the Pasadena Judicial District, within the Southeast Municipal Court District, the Southbay Judicial District, or within the West Los Angeles Branch of the Los Angeles Municipal Court District, until the time that the County of Los Angeles has fulfilled the requirements of subdivisions (a) and (b), and has commenced construction of new facilities or the expansion of existing facilities for the municipal courts in the Pasadena Judicial District, the north and south branches of the Southeast Municipal Court District, the Southbay Judicial District, and the West Los Angeles Branch of the Los Angeles Municipal Court District.

(d) For purposes of this section, the San Fernando Valley Statistical Area includes all land within the San Fernando Valley Statistical Area (as defined in subdivision (c) of Section 11093) as well as the City of San Fernando, the City of Hidden Hills, and the unincorporated areas of Los Angeles County located west of the City of Los Angeles, east and south of the Ventura County line, and north of a line extended westerly from the southern boundary of the San Fernando Valley Statistical Area (as defined in subdivision (c) of Section 11093).

(e) Notwithstanding any other provision of law, to assist the County of Los Angeles in the funding of courtroom construction, the Board of Supervisors of Los Angeles County shall establish in the county treasury a Robbins Courthouse Construction Fund. Deposits shall be made to the fund, as follows:

(1) The county treasurer shall place in the fund one dollar ($1) for each parking case presented to or filed in the courts of the county. The moneys shall be taken from fines and forfeitures deposited with the treasurer prior to any division pursuant to Section 1463 of the Penal Code.

(2) Each city, district, or other issuing agency which elects to receive, deposit, accept forfeitures, and otherwise process the posting of bail for parking violations pursuant to subdivision (3) of Section 1463 of the Penal Code, shall pay one dollar and fifty cents ($1.50) for each bail deposit collected on each violation which is not filed in court to the county treasurer. The payments to the county treasurer shall be made monthly, and the treasurer shall deposit all

those payments in the fund.

(3) The county treasurer shall place all additional assessment amounts collected on nonparking offenses, pursuant to Section 76000, in the fund.

(f) The fund moneys together with any interest earned thereon shall be held by the treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. The moneys of the Robbins Courthouse Construction Fund together with any interest earned thereon shall be payable only for courtroom construction and land acquisition as authorized in subdivision (a) and, after the requirement of subdivision (a) has been met, shall be payable only for courtroom construction and land acquisition as authorized in subdivision (b) and, after the requirements of subdivisions (a) and (b) have been met, shall be payable only for courtroom construction and land acquisition as authorized in subdivision (c). However, on or after June 1 in any fiscal year and until June 1, 1986, the County of Los Angeles may make temporary transfers of fund moneys to its general fund to assist the county in balancing its general fund. Any such transfer shall be treated as an advance and shall be repaid to the Robbins Courthouse Construction Fund within 180 days of the transfer.

(g) Deposits to the fund in accordance with subdivision (d) shall continue through and including either (1) the 25th year after the initial calendar year in which the surcharge is collected or (2) whatever period of time is necessary to repay any borrowings made by the county to pay for construction provided for in this section, whichever time is longer.

(h) The resolution adopted by the Board of Supervisors of the County of Los Angeles on September 2, 1980, stating that the provisions of Chapter 578 of the Statutes of 1980 are necessary to the establishment of adequate courtroom facilities in the County of Los Angeles shall be deemed a resolution stating that the provisions of Section 76000 and this section are necessary to the establishment of adequate courtroom facilities in the county, and shall satisfy the requirement of Section 76000.

76002. (a) Notwithstanding any other provision of law, for the purpose of assisting the City and County of San Francisco in the acquisition, rehabilitation, construction and financing of courtrooms or of a courtroom building or buildings containing facilities necessary or incidential to the operation of the justice system, the Board of Supervisors of the City and County of San Francisco shall establish in the city and county treasury a San Francisco Courthouse Temporary Construction Fund into which shall be deposited the amounts collected pursuant to subdivisions (d), (e), and (f). The moneys of the San Francisco Courthouse Temporary Construction Fund together with any interest earned thereon shall be payable only for the purposes set forth in subdivision (b) and at the time necessary therefor.

(b) In conjunction with the acquisition, rehabilitation,

construction or financing of courtrooms or of a courtroom building or buildings referred to in subdivision (a), the City and County of San Francisco may use the moneys of the San Francisco Courthouse Temporary Construction Fund (1) to rehabilitate existing courtrooms or an existing courtroom building or buildings for other uses if new courtrooms or a courtroom building or buildings are acquired, constructed or financed or (2) to acquire, rehabilitate, construct or finance excess courtrooms or an excess courtroom building or buildings if such excess is anticipated to be needed at a later time.

(c) Any excess courtrooms or excess courtroom building or buildings that are acquired, rehabilitated, constructed or financed pursuant to subdivision (b) may be leased or rented for uses other than the operation of the justice system until such time as such excess courtrooms or excess courtroom building or buildings are needed for the operation of the justice system. Any amounts received as lease or rental payments pursuant to this subdivision shall be deposited in the San Francisco Courthouse Temporary Construction Fund.

(d) The county treasurer shall place in the fund one dollar ($1) for each parking case presented to or filed in the courts of the county. Such moneys shall be taken from fines and forfeitures deposited with the treasurer prior to any division pursuant to Section 1463 of the Penal Code.

(e) Each city, district, or other issuing agency which elects to receive, deposit, accept forfeitures, and otherwise process the posting of bail for parking violations pursuant to subdivision (3) of Section 1463 of the Penal Code, shall pay one dollar and fifty cents ($1.50) for each bail deposit collected on each violation which is not filed in court to the county treasurer. Such payments to the county treasurer shall be made monthly, and the treasurer shall deposit all such sums in the fund.

(f) The county treasurer shall place all additional assessment amounts collected on nonparking offenses, pursuant to Section 76000, in the fund.

The fund moneys together with any interest earned thereon shall be held by the treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code.

Deposits to the fund in accordance with subdivisions (d), (e), and (f) shall continue through and including the 20th year after the initial calendar year in which the surcharge is collected.

(g) Subdivisions (a) to (f), inclusive, shall become operative upon the adoption of a resolution by the Board of Supervisors of the City and County of San Francisco stating that the provisions of Section 76000 and this section are necessary to the establishment of adequate courtroom facilities in the City and County of San Francisco, setting forth the surcharge or surcharges to be levied, the amount of such surcharge or surcharges, and the manner in which such surcharge or surcharges shall be collected, and instructing the Clerk of the City and County of San Francisco to transmit, on the next business day

following the adoption of said resolution, a copy of said resolution to the Clerk of the Municipal Court of the City and County of San Francisco.

76003. (a) Notwithstanding any other provisions of law, for the purpose of assisting the City and County of San Francisco in the acquisition, rehabilitation, construction and financing of courtrooms or of a courtroom building or buildings containing facilities necessary or incidental to the operation of the justice system, the Board of Supervisors of the City and County of San Francisco shall establish in the city and county treasury a San Francisco Courthouse Temporary Construction Fund into which shall be deposited the amounts collected pursuant to subdivisions (d) and (e). The moneys of the San Francisco Courthouse Temporary Construction Fund together with any interest earned thereon shall be payable only for the foregoing purposes and at the time necessary therefor, and for the purposes set forth in subdivision (b) and at the time necessary therefor.

(b) In conjunction with the acquisition, rehabilitation, construction or financing of courtrooms or of a courtroom building or buildings referred to in subdivision (a), the City and County of San Francisco may use the moneys of the San Francisco Courthouse Temporary Construction Fund (1) to rehabilitate existing courtrooms or an existing courtroom building or buildings for other uses if new courtrooms or a courtroom building or buildings are acquired, constructed or financed or (2) to acquire, rehabilitate, construct or finance excess courtrooms or an excess courtroom building or buildings if such excess is anticipated to be needed at a later time.

(c) Any excess courtrooms or excess courtroom building or buildings that are acquired, rehabilitated, constructed or financed pursuant to subdivision (b) may be leased or rented for uses other than the operation of the justice system until such time as such excess courtrooms or excess courtroom building or buildings are needed for the operation of the justice system. Any amounts received as lease or rental payments pursuant to this subdivision shall be deposited in the San Francisco Courthouse Temporary Construction Fund.

(d) In the City and County of San Francisco, a surcharge for the purpose and for the time set forth in this section may be added to any filing fee in any civil action in either the municipal court or in any civil or probate action in the superior court. The surcharge shall be in an amount, not to exceed fifty dollars ($50), and shall be collected in a manner as set forth in a resolution adopted by the Board of Supervisors of the City and County of San Francisco.

76004. (a) Notwithstanding any other provision of law, to assist a county in the funding of county criminal justice facilities construction and the improvement of criminal justice automated information systems, the board of supervisors, operative upon the adoption of a resolution stating that the provisions of this section and Section 76000 are necessary to the establishment of adequate county

criminal justice facilities in the county, may establish in the county treasury a County Criminal Justice Facility Temporary Construction Fund. Deposits shall be made to the fund, as follows:

(1) The county treasurer shall place in the fund one dollar ($1) for each parking case presented to or filed in the courts of the county. These moneys shall be taken from fines and forfeitures deposited with the treasurer prior to any division pursuant to Section 1463 of the Penal Code.

(2) Each city, district, or other issuing agency which elects to receive, deposit, accept forfeitures, and otherwise process the posting of bail for parking violations pursuant to subdivision (3) of Section 1463 of the Penal Code, shall pay one dollar and fifty cents ($1.50) for each bail deposit collected on each bail violation which is not filed in court to the county treasurer. These payments to the county treasurer shall be made monthly, and the treasurer shall deposit all those payments in the fund.

(3) The county treasurer shall place all additional assessment amounts collected on nonparking offenses, pursuant to Section 76000, in the fund.

(b) The fund moneys together with any interest earned thereon shall be held by the treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. The moneys in the County Criminal Justice Facility Temporary Construction Fund together with any interest earned thereon shall be payable only for construction, reconstruction, expansion, improvement, operation, or maintenance of county criminal justice and court facilities, and for improvement of criminal justice automated information systems. The money in the fund may be used through any public agency funding mechanism, including, but not limited to, retirement of bonded indebtedness, loan repayments, and monthly payments involving lease-purchase programs, which reduce an obligation incurred in reliance upon the authority granted by this section.

(c) However, in order to assist in balancing the county general fund for any fiscal year, until June 1, 1986, the county may make temporary transfers on or after June 1 of that fiscal year from the County Criminal Justice Facility Temporary Construction Fund to the county's general fund. All these transfers shall be treated as advances and shall be repaid to the County Criminal Justice Facility Temporary Construction Fund within 180 days.

(d) For purposes of this section, "county criminal justice facilities" includes, but is not limited to, jails, women's centers, detention facilities, juvenile halls, and courtrooms. Any new jail, or any addition to an existing jail that provides new cells or beds, which is constructed with moneys from the County Criminal Justice Facility Temporary Construction Fund shall comply with the "Minimum Standards for Local Detention Facilities" promulgated by the Board of Corrections.

(e) Deposits to the fund in accordance with paragraphs (1), (2),

and (3) of subdivision (a) shall continue through and including the 20th year after the initial calendar year in which the surcharge is collected, or longer if and as necessary to make payments upon any lease or leaseback arrangement utilized to finance any of the projects specified in subdivision (a) or (b).

76005. (a) Notwithstanding any other provision of law, to assist a county other than Los Angeles or the City and County of San Francisco in the acquisition, rehabilitation, construction, and financing of courtrooms or of a courtroom building or buildings containing facilities necessary to the operation of the courts, and, in Monterey County, the improvement of criminal justice automated information systems, the board of supervisors of a county other than Los Angeles or the City and County of San Francisco, operative upon the adoption of a resolution stating that the provisions of this section and the assessments provided for in paragraph (2) of subdivision (a) of Section 76000 are necessary to the establishment of adequate courtroom facilities in the county, may establish in the county treasury a Courthouse Temporary Construction Fund.

The county treasurer shall place all assessment amounts collected on nonparking offenses pursuant to paragraph (2) of subdivision (a) of Section 76000 in the fund.

(b) The fund moneys together with any interest earned thereon shall be held by the treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. The moneys of the Courthouse Temporary Construction Fund together with any interest earned thereon shall be payable only for courtroom construction as authorized in subdivision (a); provided, that in Monterey County, for a five-year period, up to 50 percent of the moneys deposited each year in the Courthouse Temporary Construction Fund, but in no case exceeding a total of five hundred thousand dollars ($500,000) for the five-year period, may be payable for the improvement of criminal justice automated information systems upon the adoption of a resolution by the board of supervisors stating that such moneys used for automated information system improvement purposes are not required for the construction of courthouse buildings during the five-year period.

(c) Deposits to the fund in accordance with subdivision (a) shall continue through and including either (1) the 20th year after the initial calendar year in which the surcharge is collected or (2) whatever period of time is necessary to repay any borrowings made by the county to finance construction provided for in this section, whichever time shall be longer.

SEC. 7. Section 1206.8 of the Penal Code is repealed.

SEC. 8. Section 1464 of the Penal Code, as amended by Section 322 of Chapter 1092 of the Statutes of 1983, is amended to read:

1464. (a) Subject to the provisions of Section 76000 of the Government Code, there shall be levied an assessment in an amount equal to five dollars ($5) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and

collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section and Section 76000 of the Government Code for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Section 76000 of the Government Code shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.38 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Restitution Fund an amount equal to 22.12 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the

provisions of subdivision (b) of Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 27.75 percent of the funds deposited in the Assessment Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 29.73 percent of the funds deposited in the Assessment Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 9.12 percent of the funds deposited in the Assessment Fund during the preceding month. Money in the Corrections Training Fund is not continuously appropriated and shall be appropriated in the Budget Act.

(6) Once a month there shall be transferred into the Local Public Prosecutors and Public Defenders Training Fund established pursuant to Section 11503 an amount equal to 0.90 percent of the funds deposited in the Assessment Fund during the preceding month. The amount so transferred shall not exceed the sum of five hundred thousand dollars ($500,000) in any calendar year. The remainder in excess of five hundred thousand dollars ($500,000) shall be transferred to the Restitution Fund.

(7) Once a month there shall be transferred into the Victim-Witness Assistance Fund an amount equal to 10.00 percent of the funds deposited in the Assessment Fund during the preceding month.

(g) This section shall become operative on July 1, 1983, shall remain in effect only until January 1, 1986, and as of that date is repealed.

SEC. 9. Section 1464 of the Penal Code, as added by Section 3.5 of Chapter 1437 of the Statutes of 1982, is amended to read:

1464. (a) Subject to the provisions of Section 76000 of the Government Code, there shall be levied an assessment in an amount equal to four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section and Section 76000 of the Government Code for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the assessment shall be

based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Section 76000 of the Government Code shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 24.17 percent of the funds deposited in the Assessment Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 40.69 percent of the funds deposited in the Assessment Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 10.14 percent of the funds deposited in the Assessment Fund during the preceding month.

Money in the Corrections Training Fund is not continuously appropriated and shall be appropriated in the Budget Act.

(g) This section shall become operative on January 1, 1986, shall remain in effect only until July 1, 1987, and as of that date is repealed.

SEC. 10. Section 1464 of the Penal Code, as amended by Section 1 of Chapter 1437 of the Statutes of 1982, is amended to read:

1464. Subject to the provisions of Section 76000 of the Government Code, there shall be levied an assessment in an amount equal to four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section and Section 76000 of the Government Code for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Section 76000 of the Government Code shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

The moneys so deposited shall be distributed as follows:

(a) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment

levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(b) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(c) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 24.17 percent of the funds deposited in the Assessment Fund during the preceding month.

(d) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 50.83 percent of the funds deposited in the Assessment Fund during the preceding month.

This section shall become operative on July 1, 1987.

SEC. 11. Section 42008 of the Vehicle Code, as added by Chapter 9 of the Statutes of 1984, is amended to read:

42008. In addition to the fees authorized or required by other provisions of law, and upon order of the court in a county in which a fund is established pursuant to Section 76001, 76002, or 76004 of the Government Code, the clerk of the court shall collect one dollar ($1) for each fund so established for the county from every person ordered, in lieu of a fine, to attend a school pursuant to Section 42005 of this code or any court-supervised program of driving instruction.

The amounts collected shall be deposited with the county treasurer and placed in the fund established pursuant to Section 76001, 76002, or 76004 of the Government Code.

SEC. 12. The fund established by the Board of Supervisors of Los Angeles County in the county treasury pursuant to subdivision (d) of Section 68073.1 of the Government Code is renamed, and shall hereafter be known as, the Robbins Courthouse Construction Fund.

SEC. 13. This act shall become operative only if SB 850 of the 1983–84 Regular Session is chaptered and takes effect on or before January 1, 1985.

CHAPTER 1340

An act to amend Section 13967 of the Government Code, to amend Sections 1202.4, 1203, 1203.04, and 1214 of, and to amend and repeal Section 1464 of, the Penal Code, and to amend Sections 729.6 and 730.6 of the Welfare and Institutions Code, relating to restitution, and making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 25, 1984.]

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

SECTION 1. Section 13967 of the Government Code is amended to read:

13967. (a) Upon a person being convicted of any crime in the State of California, the court shall, in addition to any other penalty provided or imposed under the law, order the defendant to pay restitution in the form of a penalty assessment in accordance with Section 1464 of the Penal Code. In addition, if the person is convicted of one or more felony offenses, the court shall impose a separate and additional restitution fine of not less than one hundred dollars ($100) and not more than ten thousand dollars ($10,000). In setting the amount of the fine for felony convictions, the court shall consider any relevant factors including, but not limited to, the seriousness and gravity of the offense and the circumstances of its commission, any economic gain derived by the defendant as a result of the crime, and the extent to which others suffered losses as a result of the crime. Such losses may include pecuniary losses to the victim or his or her dependents as well as intangible losses, such as psychological harm caused by the crime. Except as provided in Section 1202.4 of the Penal Code, under no circumstances shall the court fail to impose the separate and additional restitution fine required by this section. This fine shall not be subject to penalty assessments as provided in Section 1464 of the Penal Code.

(b) The fine imposed pursuant to this section shall be deposited in the Restitution Fund in the State Treasury. Notwithstanding Section 13340, the proceeds in the Restitution Fund are hereby continuously appropriated to the board for the purpose of indemnifying persons filing claims pursuant to this article. However, the funds appropriated pursuant to this section for administrative costs of the State Board of Control shall be subject to annual review through the State Budget process.

SEC. 2. Section 1202.4 of the Penal Code is amended to read:

1202.4. (a) In any case in which a defendant is convicted of a felony, the court shall order the defendant to pay a restitution fine as provided in subdivision (a) of Section 13967 of the Government Code. Such restitution fine shall be in addition to any other penalty or fine imposed and shall be ordered regardless of the defendant's present ability to pay. However, if the court finds that there are compelling and extraordinary reasons, the court may waive imposition of the fine. When such a waiver is granted, the court shall state on the record all reasons supporting the waiver.

(b) In any case in which the defendant is ordered to pay restitution as a condition of probation, the order to pay the restitution fine, or portion thereof, may be stayed pending the successful completion of probation, and thereafter the stay shall

become permanent.

(c) If the restitution fine has been stayed pending successful completion of probation, upon revocation of probation and imposition of sentence the stay shall be lifted. The amount of restitution fine shall be offset by any restitution payments actually made as a condition of probation.

SEC. 3. Section 1203 of the Penal Code is amended to read:

1203. (a) As used in this code, "probation" shall mean the suspension of the imposition or execution of a sentence and the order of conditional and revocable release in the community under the supervision of the probation officer. As used in this code, "conditional sentence" shall mean the suspension of the imposition or execution of a sentence and the order of revocable release in the community subject to the conditions established by the court without the supervision of the probation officer. It is the intent of the Legislature that both conditional sentence and probation are authorized whenever probation is authorized in any code as a sentencing option for infractions or misdemeanors.

(b) In every case in which a person is convicted of a felony and is eligible for probation, before judgment is pronounced, the court shall immediately refer the matter to the probation officer to investigate and report to the court, at a specified time, upon the circumstances surrounding the crime and the prior history and record of the person, which may be considered either in aggravation or mitigation of the punishment. The probation officer shall immediately investigate and make a written report to the court of his or her findings and recommendations, including his or her recommendations as to the granting or denying of probation and the conditions of probation, if granted. Pursuant to Section 828 of the Welfare and Institutions Code, the probation officer shall include in his or her report any information gathered by a law enforcement agency relating to the taking of the defendant into custody as a minor, which shall be considered for purposes of determining whether adjudications of commissions of crimes as a juvenile warrant a finding that there are circumstances in aggravation pursuant to Section 1170 or to deny probation. The probation officer shall also include in the report his or her recommendation of the amount the defendant should be required to pay as a restitution fine pursuant to Section 13967 of the Government Code. The probation officer shall also include in his or her report a recommendation as to whether the court shall require, as a condition of probation, restitution to the victim or to the Restitution Fund. The report shall be made available to the court and the prosecuting and defense attorney at least nine days prior to the time fixed by the court for the hearing and determination of the report, and shall be filed with the clerk of the court as a record in the case at the time of the hearing. The time within which the report shall be made available and filed may be waived by written stipulation of the prosecuting and defense attorneys which is filed with the court or an oral stipulation in open

court which is made and entered upon the minutes of the court. At a time fixed by the court, the court shall hear and determine the application, if one has been made, or, in any case, the suitability of probation in the particular case. At the hearing, the court shall consider any report of the probation officer and shall make a statement that it has considered such report which shall be filed with the clerk of the court as a record in the case. If the court determines that there are circumstances in mitigation of the punishment prescribed by law or that the ends of justice would be served by granting probation to the person, it may place the person on probation. If probation is denied, the clerk of the court shall immediately send a copy of the report to the Department of Corrections at the prison or other institution to which the person is delivered.

(c) If a defendant is not represented by an attorney, the court shall order the probation officer who makes the probation report to discuss its contents with the defendant.

(d) In every case in which a person is convicted of a misdemeanor, the court may either refer the matter to the probation officer for an investigation and a report or summarily pronounce a conditional sentence. If such a case is not referred to the probation officer, in sentencing the person, the court may consider any information concerning the person which could have been included in a probation report. The court shall inform the person of the information to be considered and permit him or her to answer or controvert such information. For this purpose, upon the request of the person, the court shall grant a continuance before the judgment is pronounced.

(e) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any of the following persons:

(1) Unless the person had a lawful right to carry a deadly weapon, other than a firearm, at the time of the perpetration of the crime or his or her arrest, any person who has been convicted of arson, robbery, burglary, burglary with explosives, rape with force or violence, murder, assault with intent to commit murder, attempt to commit murder, trainwrecking, kidnapping, escape from the state prison, or a conspiracy to commit one or more of such crimes and was armed with such weapon at either of such times.

(2) Any person who used or attempted to use a deadly weapon upon a human being in connection with the perpetration of the crime of which he or she has been convicted.

(3) Any person who willfully inflicted great bodily injury or torture in the perpetration of the crime of which he or she has been convicted.

(4) Any person who has been previously convicted twice in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony.

(5) Unless the person has never been previously convicted once

in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, any person who has been convicted of burglary with explosives, rape with force or violence, murder, attempt to commit murder, assault with intent to commit murder, trainwrecking, extortion, kidnapping, escape from the state prison, a violation of Section 286, 288, or 288a, or a conspiracy to commit one or more of such crimes.

(6) Any person who has been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, if he or she committed any of the following acts:

(A) Unless the person had a lawful right to carry a deadly weapon at the time of the perpetration of such previous crime or his arrest for such previous crime, he or she was armed with such weapon at either of such times.

(B) The person used or attempted to use a deadly weapon upon a human being in connection with the perpetration of such previous crime.

(C) The person willfully inflicted great bodily injury or torture in the perpetration of such previous crime.

(7) Any public official or peace officer of this state or any city, county, or other political subdivision who, in the discharge of the duties of his or her public office or employment, accepted or gave or offered to accept or give any bribe, embezzled public money, or was guilty of extortion.

(8) Any person who knowingly furnishes or gives away phencyclidine.

(9) Any person who intentionally inflicted great bodily injury in the commission of arson under subdivision (a) of Section 451 or who intentionally set fire to, burned, or caused the burning of, an inhabited structure or inhabited property in violation of subdivision (b) of Section 451.

(f) When probation is granted in a case which comes within the provisions of subdivision (e), the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(g) If a person is not eligible for probation, the judge shall refer the matter to the probation officer for an investigation of the facts relevant to determination of the amount of a restitution fine pursuant to Section 13967 of the Government Code in all cases where such determination is applicable. The judge, in his or her discretion, may direct the probation officer to investigate all facts relevant to the sentencing of the person. Upon such referral, the probation officer shall immediately investigate the circumstances surrounding the crime and the prior record and history of the person and make a written report to the court of his or her findings. The findings shall include a recommendation of the amount of the restitution fine as provided in Section 13967 of the Government Code.

(h) In any case in which a defendant is convicted of a felony and

a probation report is prepared pursuant to subdivision (b) or (g), the probation officer shall obtain and include in such report a statement of the comments of the victim concerning the offense. The court may direct the probation officer not to obtain such a statement in any case where the victim has in fact testified at any of the court proceedings concerning the offense.

(i) No probationer shall be released to enter another state unless his or her case has been referred to the Administrator, Interstate Probation and Parole Compacts, pursuant to the Uniform Act for Out-of-State Probationer or Parolee Supervision (Article 3 (commencing with Section 11175) of Chapter 2 of Title 1 of Part 4).

SEC. 4. Section 1203.04 of the Penal Code is amended to read:

1203.04. (a) In every case where a person is convicted of a crime and is granted probation, the court shall require, as a condition of probation, that the person make restitution as follows:

(1) To the victim, if the crime involved a victim. For purposes of this section, "victim" shall include the immediate surviving family of the actual victim in homicide cases. Payments shall be made to the Restitution Fund to the extent the victim has received assistance pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code.

(2) To the Restitution Fund, if the crime did not involve a victim.

(b) If the court finds, and states its reasons for the finding on the record, that there are compelling and extraordinary reasons why restitution should not be required as provided in subdivision (a), the court shall require, as a condition of probation, that the person perform specified community service.

(c) The court may avoid imposing the requirement of community service as a condition of probation only if it finds, and states its reasons for the finding on the record, that there are compelling and extraordinary reasons not to require community service in addition to its finding as to why restitution pursuant to subdivision (a) should not be required.

(d) For purposes of paragraph (1) of subdivision (a), "restitution" means full or partial payment for the value of stolen or damaged property, medical expenses, and wages or profits lost due to injury or to time spent as a witness or in assisting the police or prosecution, which losses were caused by the defendant as a result of committing the crime for which he or she was convicted. The value of stolen or damaged property shall be the replacement cost of like property, or the actual cost of repairing the property when repair is possible.

Restitution collected pursuant to this section shall be credited to any other judgments obtained by the victim against the defendant arising out of the crime for which the defendant was convicted.

(e) For purposes of paragraph (2) of subdivision (a), the amount of restitution to be paid to the Restitution Fund shall be set at the discretion of the court and commensurate with the seriousness of the offense; but shall not exceed ten thousand dollars ($10,000) if the person is convicted of a felony; and shall not exceed one thousand

dollars ($1,000) if the person is convicted of a misdemeanor.

(f) Nothing in this section shall be construed to limit the authority of the court to grant or deny probation or provide conditions of probation.

(g) As used in this section, probation includes a "conditional sentence" as that term is defined in subdivision (a) of Section 1203.

SEC. 5. Section 1214 of the Penal Code is amended to read:

1214. (a) If the judgment is for a fine, including a restitution fine ordered pursuant to Section 13967 of the Government Code, with or without imprisonment, the judgment may be enforced in the manner provided for the enforcement of money judgments generally.

(b) Chapter 3 (commencing with Section 683.010) of Division 1 of Title 9 of Part 2 of the Code of Civil Procedure shall not apply to a judgment for any fine ordered pursuant to Section 13967 of the Government Code.

SEC. 6. Section 1464 of the Penal Code, as amended by Section 322 of Chapter 1092 of the Statutes of 1983, is amended to read:

1464. (a) Subject to the provisions of Section 1206.8, there shall be levied an assessment in an amount equal to five dollars ($5) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section and Section 1206.8 for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

(e) After a determination by the court of the amount due, the

clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Section 1206.8 shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.38 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Restitution Fund an amount equal to 22.12 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 27.75 percent of the funds deposited in the Assessment Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 29.73 percent of the funds deposited in the Assessment Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 9.12 percent of the funds deposited in the Assessment Fund during the preceding month. Money in the Corrections Training Fund is not continuously appropriated and shall be appropriated in the Budget Act.

(6) Once a month there shall be transferred into the Local Public Prosecutors and Public Defenders Training Fund established pursuant to Section 11503 an amount equal to 0.90 percent of the funds deposited in the Assessment Fund during the preceding month. The amount so transferred shall not exceed the sum of seven hundred fifty thousand dollars ($750,000) in any fiscal year. The remainder in excess of seven hundred fifty thousand dollars ($750,000) shall be transferred to the Restitution Fund.

(7) Once a month there shall be transferred into the Victim-Witness Assistance Fund an amount equal to 10.00 percent of the funds deposited in the Assessment Fund during the preceding month.

SEC. 7. Section 1464 of the Penal Code, as amended by Section

322 of Chapter 1092 of the Statutes of 1983, is amended to read:

1464. (a) Subject to the provisions of Section 76000 of the Government Code, there shall be levied an assessment in an amount equal to five dollars ($5) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section and Section 76000 of the Government Code for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Section 76000 of the Government Code shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.38 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of

Fish and Game.

(2) Once a month there shall be transferred into the Restitution Fund an amount equal to 22.12 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 27.75 percent of the funds deposited in the Assessment Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 29.73 percent of the funds deposited in the Assessment Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 9.12 percent of the funds deposited in the Assessment Fund during the preceding month. Money in the Corrections Training Fund is not continuously appropriated and shall be appropriated in the Budget Act.

(6) Once a month there shall be transferred into the Local Public Prosecutors and Public Defenders Training Fund established pursuant to Section 11503 an amount equal to 0.90 percent of the funds deposited in the Assessment Fund during the preceding month. The amount so transferred shall not exceed the sum of seven hundred fifty thousand dollars ($750,000) in any fiscal year. The remainder in excess of seven hundred fifty thousand dollars ($750,000) shall be transferred to the Restitution Fund.

(7) Once a month there shall be transferred into the Victim-Witness Assistance Fund an amount equal to 10.00 percent of the funds deposited in the Assessment Fund during the preceding month.

SEC. 7.5. Section 1464 of the Penal Code, as amended by Section 1 of Chapter 1437 of the Statutes of 1982, is repealed.

SEC. 8. Section 1464 of the Penal Code, as added by Section 3.5 of Chapter 1437 of the Statutes of 1982, is repealed.

SEC. 9. Section 729.6 of the Welfare and Institutions Code is amended to read:

729.6. (a) If a minor is found to be a person described in Section 602, the court shall require as a condition of probation, that the minor make restitution as follows:

(1) To the victim, if the crime involved a victim. For purposes of this section, "victim" shall include the immediate surviving family of the actual victim in homicide cases. Payments shall be made to the Restitution Fund to the extent that the victim has received assistance pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code.

(2) To the Restitution Fund, if the crime did not involve a victim.

(b) If the court finds, and states its reasons for the finding on the

record, that there are compelling and extraordinary reasons why restitution should not be required as provided in subdivision (a), the court shall require, as a condition of probation, that the minor perform specified community services.

(c) The court may avoid imposing the requirement of community service as a condition of probation only if it finds, and states its reasons for the finding on the record, that there are compelling and extraordinary reasons not to require community service in addition to its finding as to why restitution pursuant to subdivision (a) should not be required.

(d) For purposes of paragraph (1) of subdivision (a), "restitution" means full or partial payment for the value of stolen or damaged property, medical expenses, and wages or profits lost due to injury or to time spent as a witness or in assisting the police or prosecution, which losses were caused by the minor as a result of committing the offense for which he or she was found to be a person described in Section 602. The value of stolen or damaged property shall be the replacement cost of like property, or the actual cost of repairing the property when repair is possible. Restitution collected pursuant to this section shall be credited to any other judgments obtained by the victim against the minor arising out of the offense for which the minor was found to be a person described in Section 602.

(e) For purposes of paragraph (2) of subdivision (a), the amount of restitution to be paid to the Restitution Fund shall be set at the discretion of the court and commensurate with the seriousness of the offense; but shall not exceed one thousand dollars ($1,000) if the person is found to have committed a felony; and shall not exceed one hundred dollars ($100) if the person is found to have committed a misdemeanor.

(f) Nothing in this section shall be construed to limit the authority of the court to grant or deny probation or provide conditions of probation.

SEC. 10. Section 730.6 of the Welfare and Institutions Code is amended to read:

730.6. (a) When a minor is found to be a person described in Section 602, in addition to any other disposition authorized by law, the court shall levy a restitution fine which shall be deposited in the Restitution Fund, the proceeds of which shall be distributed pursuant to subdivision (b) of Section 13967 of the Government Code.

(b) The restitution fine imposed pursuant to this section shall be in the form of a penalty assessment in accordance with Section 1464 of the Penal Code. In addition, if the person is found to be a person described in Section 602 by reason of the commission of one or more felony offenses, the court shall impose a separate and additional restitution fine of not more than one thousand dollars ($1,000). In setting the amount of the fine for felony offenses, the court shall consider any relevant factors including, but not limited to, the seriousness and gravity of the offense and the circumstances of its

commission, any economic gain derived by the minor as a result of the offense, and the extent to which others suffered losses as a result of the offense. Such losses may include pecuniary losses to the victim or his or her dependents as well as intangible losses, such as psychological harm caused by the offense.

(c) The restitution fine shall be imposed in every case in which a minor is found to be a person described in Section 602. Such restitution fine shall be in addition to any other disposition or fine imposed and shall be imposed regardless of the minor's present ability to pay. Except as provided in this section, under no circumstances shall the court fail to impose the separate and additional restitution fine in felony cases required by this section. This fine shall not be subject to penalty assessments pursuant to Section 1464 of the Penal Code. In a case in which the minor is a person described in Section 602 by reason of having committed a felony offense, if the court finds that there are compelling and extraordinary reasons, the court may waive imposition of the restitution fine. When such a waiver is granted, the court shall state on the record all reasons supporting the waiver.

(d) In any case in which the minor is ordered to pay restitution as a condition of probation, the order to pay the restitution fine may be stayed pending the successful completion of probation, and thereafter the stay shall become permanent.

(e) If the restitution fine has been stayed pending successful completion of probation, upon revocation of probation and imposition of sentence the stay shall be lifted. The amount of the restitution fine shall be offset by any restitution payments actually made as a condition of probation. However, probation shall not be revoked for failure of a person to make restitution pursuant to Section 729.6 as a condition of probation unless the court determines that the person has willfully failed to pay or failed to make sufficient bona fide efforts to legally acquire the resources to pay.

SEC. 11. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 12. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the duties, obligations, or responsibilities imposed on local government by this act were expressly included in a ballot measure approved by the voters in a statewide election.

SEC. 13. The sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated from the Local Public Prosecutors and Public Defenders Training Fund to the Office of Criminal Justice Planning for fiscal year 1984–85 in augmentation of budget item number 8100-101-241.

SEC. 14. Section 7 of this bill incorporates amendments to Section 1464 of the Penal Code proposed by both this bill and SB 1533. It shall

only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 1464 of the Penal Code, and (3) this bill is enacted after SB 1533, in which case Section 6 of this bill shall not become operative.

CHAPTER 1341

An act to amend Sections 76004 and 76005 of the Government Code, relating to juvenile justice.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 25, 1984.]

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

SECTION 1. Section 76004, as proposed to be added to the Government Code by Senate Bill 1394 of the 1983–84 Regular Session, is amended to read:

76004. (a) Notwithstanding any other provision of law, to assist a county in the funding of county criminal justice facilities construction and the improvement of criminal justice automated information systems, and, in San Bernardino County, the maintenance, operation, construction, reconstruction, or expansion of county juvenile justice rehabilitation facilities, the board of supervisors, operative upon the adoption of a resolution stating that the provisions of this section and Section 76000 are necessary to the establishment of adequate county criminal justice facilities in the county, may establish in the county treasury a County Criminal Justice Facility Temporary Construction Fund. Deposits shall be made to the fund, as follows:

(1) The county treasurer shall place in the fund one dollar ($1) for each parking case presented to or filed in the courts of the county. These moneys shall be taken from fines and forfeitures deposited with the treasurer prior to any division pursuant to Section 1463 of the Penal Code.

(2) Each city, district, or other issuing agency which elects to receive, deposit, accept forfeitures, and otherwise process the posting of bail for parking violations pursuant to subdivision (3) of Section 1463 of the Penal Code, shall pay one dollar and fifty cents ($1.50) for each bail deposit collected on each bail violation which is not filed in court to the county treasurer. These payments to the county treasurer shall be made monthly, and the treasurer shall deposit all those payments in the fund.

(3) The county treasurer shall place all additional assessment amounts collected on nonparking offenses, pursuant to Section 76000, in the fund.

(b) The fund moneys shall be held by the treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of

the Penal Code. The moneys in the County Criminal Justice Facility Temporary Construction Fund shall be payable only for construction, reconstruction, expansion, improvement, operation, or maintenance of county criminal justice and court facilities, and for improvement of criminal justice automated information systems; provided, that in San Bernardino County, money deposited each year in the County Criminal Justice Facility Temporary Construction Fund may also be used for the maintenance, operation, construction, reconstruction, or expansion of county juvenile justice rehabilitation facilities. The money in the fund may be used through any public agency funding mechanism, including, but not limited to, retirement of bonded indebtedness, loan repayments, and monthly payments involving lease-purchase programs, which reduce an obligation incurred in reliance upon the authority granted by this section.

(c) However, in order to assist in balancing the county general fund for any fiscal year, until June 1, 1986, the county may make temporary transfers on or after June 1 of that fiscal year from the County Criminal Justice Facility Temporary Construction Fund to the county's general fund. All these transfers shall be treated as advances and shall be repaid to the County Criminal Justice Facility Temporary Construction Fund within 180 days.

(d) For purposes of this section, "county criminal justice facilities" includes, but is not limited to, jails, women's centers, detention facilities, juvenile halls, and courtrooms. Any new jail, or any addition to an existing jail that provides new cells or beds, which is constructed with moneys from the County Criminal Justice Facility Temporary Construction Fund shall comply with the "Minimum Standards for Local Detention Facilities" promulgated by the Board of Corrections.

(e) Deposits to the fund in accordance with paragraphs (1), (2), and (3) of subdivision (a) shall continue through and including the 20th year after the initial calendar year in which the surcharge is collected, or longer if and as necessary to make payments upon any lease or leaseback arrangement utilized to finance any of the projects specified in subdivision (a) or (b).

SEC. 2. Section 76004, as proposed to be added to the Government Code by Senate Bill 1533 of the 1983–84 Regular Session, is amended to read:

76004. (a) Notwithstanding any other provision of law, to assist a county in the funding of county criminal justice facilities construction and the improvement of criminal justice automated information systems, and, in San Bernardino County, the maintenance, operation, construction, reconstruction, or expansion of county juvenile justice rehabilitation facilities, the board of supervisors, operative upon the adoption of a resolution stating that the provisions of this section and Section 76000 are necessary to the establishment of adequate county criminal justice facilities in the county, may establish in the county treasury a County Criminal

Justice Facility Temporary Construction Fund. Deposits shall be made to the fund, as follows:

(1) The county treasurer shall place in the fund one dollar ($1) for each parking case presented to or filed in the courts of the county. These moneys shall be taken from fines and forfeitures deposited with the treasurer prior to any division pursuant to Section 1463 of the Penal Code.

(2) Each city, district, or other issuing agency which elects to receive, deposit, accept forfeitures, and otherwise process the posting of bail for parking violations pursuant to subdivision (3) of Section 1463 of the Penal Code, shall pay one dollar and fifty cents ($1.50) for each bail deposit collected on each bail violation which is not filed in court to the county treasurer. These payments to the county treasurer shall be made monthly, and the treasurer shall deposit all those payments in the fund.

(3) The county treasurer shall place all additional assessment amounts collected on nonparking offenses, pursuant to Section 76000, in the fund.

(b) The fund moneys together with any interest earned thereon shall be held by the treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. The moneys in the County Criminal Justice Facility Temporary Construction Fund together with any interest earned thereon shall be payable only for construction, reconstruction, expansion, improvement, operation, or maintenance of county criminal justice and court facilities, and for improvement of criminal justice automated information systems; provided, that in San Bernardino County, money deposited each year in the County Criminal Justice Facility Temporary Construction Fund may also be used for the maintenance, operation, construction, reconstruction, or expansion of county juvenile justice rehabilitation facilities. The money in the fund may be used through any public agency funding mechanism, including, but not limited to, retirement of bonded indebtedness, loan repayments, and monthly payments involving lease-purchase programs, which reduce an obligation incurred in reliance upon the authority granted by this section.

(c) However, in order to assist in balancing the county general fund for any fiscal year, until June 1, 1986, the county may make temporary transfers on or after June 1 of that fiscal year from the County Criminal Justice Facility Temporary Construction Fund to the county's general fund. All these transfers shall be treated as advances and shall be repaid to the County Criminal Justice Facility Temporary Construction Fund within 180 days.

(d) For purposes of this section, "county criminal justice facilities" includes, but is not limited to, jails, women's centers, detention facilities, juvenile halls, and courtrooms. Any new jail, or any addition to an existing jail that provides new cells or beds, which is constructed with moneys from the County Criminal Justice Facility Temporary Construction Fund shall comply with the "Minimum

Standards for Local Detention Facilities" promulgated by the Board of Corrections.

(e) Deposits to the fund in accordance with paragraphs (1), (2), and (3) of subdivision (a) shall continue through and including the 20th year after the initial calendar year in which the surcharge is collected, or longer if and as necessary to make payments upon any lease or leaseback arrangement utilized to finance any of the projects specified in subdivision (a) or (b).

SEC. 3. Section 76005, as proposed to be added to the Government Code by Senate Bill 1394 of the 1983–84 Regular Session, is amended to read:

76005. (a) Notwithstanding any other provision of law, to assist a county other than Los Angeles or the City and County of San Francisco in the acquisition, rehabilitation, construction, and financing of courtrooms or of a courtroom building or buildings containing facilities necessary to the operation of the courts, and, in San Bernardino County, the maintenance, operation, construction, reconstruction, or expansion of county juvenile justice rehabilitation facilities, the board of supervisors of a county other than Los Angeles or the City and County of San Francisco, operative upon the adoption of a resolution stating that the provisions of this section and the assessments provided for in paragraph (2) of subdivision (a) of Section 76000 are necessary to the establishment of adequate courtroom facilities in the county, may establish in the county treasury a Courthouse Temporary Construction Fund.

The county treasurer shall place all assessment amounts collected on nonparking offenses pursuant to paragraph (2) of subdivision (a) of Section 76000 in the fund.

(b) The fund moneys shall be held by the treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. The moneys of the Courthouse Temporary Construction Fund shall be payable only for courtroom construction as authorized in subdivision (a); provided, that in San Bernardino County moneys deposited each year in the Courthouse Temporary Construction Fund may also be used for the maintenance, operation, construction, reconstruction, or expansion of county juvenile justice rehabilitation facilities.

(c) Deposits to the fund in accordance with subdivision (a) shall continue through and including either (1) the 20th year after the initial calendar year in which the surcharge is collected or (2) whatever period of time is necessary to repay any borrowings made by the county to finance construction provided for in this section, whichever time shall be longer.

SEC. 4. Section 76005, as proposed to be added to the Government Code by Senate Bill 1533 of the 1983–84 Regular Session, is amended to read:

76005. (a) Notwithstanding any other provision of law, to assist a county other than Los Angeles or the City and County of San Francisco in the acquisition, rehabilitation, construction, and

financing of courtrooms or of a courtroom building or buildings containing facilities necessary to the operation of the courts, and, in Monterey County, the improvement of criminal justice automated information systems, and, in San Bernardino County, the maintenance, operation, construction, reconstruction, or expansion of county juvenile justice rehabilitation facilities, the board of supervisors of a county other than Los Angeles or the City and County of San Francisco, operative upon the adoption of a resolution stating that the provisions of this section and the assessments provided for in paragraph (2) of subdivision (a) of Section 76000 are necessary to the establishment of adequate courtroom facilities in the county, may establish in the county treasury a Courthouse Temporary Construction Fund.

The county treasurer shall place all assessment amounts collected on nonparking offenses pursuant to paragraph (2) of subdivision (a) of Section 76000 in the fund.

(b) The fund moneys together with any interest earned thereon shall be held by the treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. The moneys of the Courthouse Temporary Construction Fund together with any interest earned thereon shall be payable only for courtroom construction as authorized in subdivision (a); provided, that in Monterey County, for a five-year period, up to 50 percent of the moneys deposited each year in the Courthouse Temporary Construction Fund, but in no case exceeding a total of five hundred thousand dollars ($500,000) for the five-year period, may be payable for the improvement of criminal justice automated information systems upon the adoption of a resolution by the board of supervisors stating that such moneys used for automated information system improvement purposes are not required for the construction of courthouse buildings during the five-year period; and provided, that in San Bernardino County moneys deposited each year in the Courthouse Temporary Construction Fund may also be used for the maintenance, operation, construction, reconstruction, or expansion of county juvenile justice rehabilitation facilities.

(c) Deposits to the fund in accordance with subdivision (a) shall continue through and including either (1) the 20th year after the initial calendar year in which the surcharge is collected or (2) whatever period of time is necessary to repay any borrowings made by the county to finance construction provided for in this section, whichever time shall be longer.

SEC. 5. Section 1 of this act shall become operative only if Senate Bill 1394 of the 1983–84 Regular Session is chaptered and adds Section 76004 to the Government Code, Senate Bill 1533 of the 1983–84 Regular Session is not chaptered, and this bill is chaptered after Senate Bill 1394.

SEC. 6. Section 2 of this act shall become operative only if Senate Bill 1533 of the 1983–84 Regular Session is chaptered, adds Section 76004 to the Government Code, and this bill is chaptered after Senate

Bill 1533.

SEC. 7. Section 3 of this act shall become operative only if Senate Bill 1394 of the 1983–84 Regular Session is chaptered, adds Section 76005 to the Government Code, Senate Bill 1533 of the 1983–84 Regular Session is not chaptered and this bill is chaptered after Senate Bill 1394.

SEC. 8. Section 4 of this act shall become operative only if Senate Bill 1533 of the 1983–84 Regular Session is chaptered, adds Section 76005 to the Government Code, and this bill is chaptered after Senate Bill 1533.

CHAPTER 1342

An act to amend Sections 16181, 16182, and 16186 of the Government Code, to amend Sections 17024, 18006.3, 18030, 18035, 18035.2, 18037.5, 18050, 18054, 18059.5, 18060, 18060.5, 18061, 18080, 18080.1, 18080.5, 18090.5, 18100.5, 18114, 18117.5, and 18303 of, and to add Section 18021.6 to, the Health and Safety Code, to amend Sections 20639.2, 20639.6, and 20639.9 of the Revenue and Taxation Code, and to amend Sections 387, 11705, 11709, 11713, and 11713.1 of, and to repeal Sections 11704.5, 11704.6, 11705.2, 11705.5, 11709.5, and 11713.6 of, the Vehicle Code, relating to property, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 16181 of the Government Code is amended to read:

16181. (a) The Controller shall maintain a record of all properties against which a notice of lien for postponed property taxes has been recorded. The record shall include, but not be limited to, the names of each claimant, a description of the real property against which the lien is recorded, the identification number of the notice of lien assigned by the Controller, and the amount of the lien.

(b) The Controller shall maintain a record of all properties against which the Department of Housing and Community Development has been notified to withhold the transfer of title. The record shall include, but not be limited to, the names of each claimant, a description of the mobilehome against which a lien is charged, and the amount of the lien.

(c) Upon written request of any person or entity, or the agent of either, having a legal or equitable interest in real property or a mobilehome which is subject to a lien for postponed taxes, the Controller shall within 10 working days following receipt of the

request issue a written statement showing the amount of the obligation secured by the lien as of the date of such statement and such other information as will reasonably enable the person or entity, or the agent of either, to determine the amount to be paid the Controller in order to obtain a certificate of release or discharge of the lien for postponed taxes.

(d) The Controller shall adopt regulations necessary to implement the provisions of this chapter and may establish a reasonable fee, not to exceed ten dollars ($10), for the provision of the statement of lien status provided for herein.

SEC. 2. Section 16182 of the Government Code is amended to read:

16182. (a) All sums paid by the Controller under the provisions of this chapter, together with interest thereon, shall be secured by a lien in favor of the State of California upon the real property or a mobilehome for which property taxes have been postponed, or both. In the case of a residential dwelling which is part of a larger parcel taxed as a unit, such as a duplex, farm, or multipurpose or multidwelling building, the lien shall be against the entire tax parcel.

(b) In the case of real property:

(1) The lien shall be evidenced by a notice of lien for postponed property taxes executed by the Controller, or the authorized delegate of the Controller, and shall secure all sums paid or owing pursuant to this chapter, including amounts paid subsequent to the initial payment of postponed taxes on the real property described in the notice of lien.

(2) The notice of lien may bear the facsimile signature of the Controller. Each signature shall be that of the person who shall be in the office at the time of execution of the notice of lien; provided, however, that such notice of lien shall be valid and binding notwithstanding any such person having ceased to hold the office of Controller before the date of recordation.

(3) The form and contents of the notice of lien for postponed property taxes shall be prescribed by the Controller and shall include, but not be limited to, the following:

(A) The names of all record owners of the real property for which the Controller has advanced funds for the payment of real property taxes.

(B) A description of the real property for which real property taxes have been paid.

(C) The identification number of the notice of lien which has been assigned the lien by the Controller.

(4) The notice of lien shall be recorded in the office of the county recorder for the county in which the real property subject to the lien is located.

(5) The recorded notice of lien shall be indexed in the Grantor Index to the names of all record owners of the real property and in the Grantee Index to the Controller of the State of California.

(6) After the notice of lien has been duly recorded and indexed,

it shall be returned by the county recorder to the office of the Controller. The recorder shall provide the county tax collector with a copy of the notice of lien which has been recorded by the Controller.

(7) From the time of recordation of a notice of lien for postponed property taxes, a lien shall attach to the real property described therein and shall have the priority of a judgment lien for all amounts secured thereby, except that the lien shall remain in effect until either of the following occurs:

(A) It is released by the Controller in the manner prescribed by Section 16186.

(B) The foreclosure or sale of an obligation secured by a lien which is senior in priority to the lien of the State of California.

(c) In the case of mobilehomes:

(1) The lien shall be evidenced by a notice of lien for postponed property taxes executed by the Controller, or the authorized delegate of the Controller, and shall secure all sums paid or owing pursuant to this chapter.

(2) The notice of lien may bear the facsimile signature of the Controller. The signature shall be that of the person who is in the office at the time of execution of the notice of lien. However, the notice of lien is valid and binding notwithstanding the person having ceased to hold the office of Controller before the date of filing.

(3) The form and contents of the notice of lien for postponed property taxes shall be prescribed by the Controller and shall include, but not be limited to, all of the following:

(A) The name or names of the registered owner or owners, legal owner or owners, if different than the registered owner or owners and the names, if any, of all junior lienholders.

(B) The identification number of the notice of lien which has been assigned the lien by the Controller.

(4) The notice of lien shall be transmitted to the Department of Housing and Community Development at its office in Sacramento, California.

(5) Upon receipt of the notice of lien for postponed property taxes from the Controller, the Department of Housing and Community Development shall amend the permanent title record of the mobilehome to reflect that the property taxes on the mobilehome are subject to postponement.

(6) The Department of Housing and Community Development shall provide the Controller with an acknowledgement of receipt and amendment of the permanent title record.

(7) From the time the Department of Housing and Community Development receives the notice of lien from the Controller, the department shall impose a moratorium on any other amendments to the permanent title record of the mobilehome for purposes of transferring any ownership interest or transferring or creating any security interest in the mobilehome, until released by the Controller in the manner prescribed by Section 16186 or an authorization for the

amendments is given by the Controller in writing.

(d) From the time of filing a notice of lien, a lien shall attach to the mobilehome for which eligibility for the postponement of property taxes has been granted.

SEC. 3. Section 16186 of the Government Code is amended to read:

16186. If at any time the amount of the obligation secured by the lien for postponed property taxes is paid in full or otherwise discharged, the Controller, or the authorized delegate of the Controller, shall:

(a) In the case of real property:

(1) Execute and cause to be recorded in the office of the county recorder of the county wherein the real property described in the lien is located, a release of the lien conclusively evidencing the satisfaction of all amounts secured by the lien. The cost of recording the release of the lien shall be added to and become part of the obligation secured by the lien being released.

(2) Direct the tax collector to remove from the secured roll, the information required to be entered thereon by paragraph (1) of subdivision (a) of Section 2514 of the Revenue and Taxation Code with respect to the property described in the lien.

(3) Direct the assessor to remove from the assessment records applicable to the property described in the lien, the information required to be entered on such records by Section 2515 of the Revenue and Taxation Code.

(b) In the case of a mobilehome:

(1) Direct the tax collector to remove from the secured roll the information required to be entered thereon by paragraph (1) of subdivision (a) of Section 2514 of the Revenue and Taxation Code.

(2) Transmit a Release of Lien to the owner of the mobilehome or the owner's heirs or assigns. The owner, or the owner's heirs or assigns, shall transmit the Release of Lien, and a fee of six dollars ($6), to the Department of Housing and Community Development. Upon receipt of the Release of Lien and the fee, the department shall terminate the restriction on the permanent title record as provided by Section 16182.

SEC. 4. Section 17024 of the Health and Safety Code is amended to read:

17024. This part does not apply to employee housing provided for faculty or employees of any public or privately operated school, college, or university. This part does not apply to any labor camp owned, operated, and maintained by any of the following:

(a) The federal government.

(b) The state.

(c) Any agency or political subdivision of the state.

(d) Any city, county, or city and county.

SEC. 5. Section 18006.3 of the Health and Safety Code is amended to read:

18006.3. "Manufacturer" means any person who produces from

raw materials or basic components a manufactured home, mobilehome, or commercial coach of a type subject to the provisions of this part, or who permanently alters for purposes of retail sales, rent, or lease, within this state, manufactured homes, mobilehomes, or commercial coaches by converting them into manufactured homes, mobilehomes, or commercial coaches subject to this part.

SEC. 5.5. Section 18021.6 is added to the Health and Safety Code, to read:

18021.6. Nothing in this part shall be construed as precluding the application of any other provision of the penal laws of this state to any transaction involving fraud, misrepresentation, forgery, or deceit which violates this part.

SEC. 6. Section 18030 of the Health and Safety Code is amended to read:

18030. (a) If the department determines that standards for commercial coaches, special purpose commercial coaches, and recreational vehicles, which have been prescribed by the statutes or regulations of another state, are at least equal to the standards prescribed by the department, the department may so provide by regulation. Thereafter, any commercial coaches, special purpose commercial coaches, or recreational vehicles which that other state has approved as meeting its standards shall be deemed to meet the standards of the department, if the department determines that the standards of the other state are actually being enforced.

(b) In lieu of the procedure set forth in subdivision (a), the department may contract with approved third-party entities for enforcement of the applicable provisions of this part for commercial coaches, special purpose commercial coaches, or recreational vehicles manufactured outside this state for sale within this state. Third-party entities may apply to the department for enforcement authority pursuant to this subdivision by providing evidence to the satisfaction of the department that they satisfy all of the following criteria:

(1) They are independent and free from conflict of interest, have the ability to enforce the provisions of this part, and shall enforce the provisions of this part without an actual, or any appearance of, a conflict of interest.

(2) They are adequately staffed with qualified personnel who can, and shall, implement all provisions of the contract, including monitoring, reporting, and enforcement.

(3) They have the authority, through contract or otherwise, and the ability to obtain correction of defects detected or reported as a result of their enforcement activities.

(4) They meet any other conditions of operations the department may reasonably incorporate into the contract.

(c) If the department enters into a contract authorized by subdivision (b), the department may require cancellation clauses, fees, personnel résumés, reports, or other reasonable information or documents deemed necessary to ensure that the provisions of

subdivision (b) and this part are adequately enforced.

SEC. 7. Section 18035 of the Health and Safety Code is amended to read:

18035. (a) For every sale by a dealer of a new or used manufactured home or mobilehome subject to registration under this part, the dealer shall execute in writing and obtain the buyer's signature on a purchase order, conditional sale contract, or other document evidencing the purchase contemporaneous with, or prior to, the receipt of any cash or cash equivalent from the buyer, shall establish an escrow account with an escrow agent, and shall cause to be deposited into that escrow account any cash or cash equivalent received at any time prior to the close of escrow as a deposit, downpayment, or whole or partial payment for the manufactured home or mobilehome or accessory thereto. The downpayment, or whole or partial payment, shall include an amount designated as a deposit, which may be less than, or equal to, the total amount placed in escrow, and shall be subject to the provisions of subdivision (f). The parties shall provide for escrow instructions which identify the fixed amounts of the deposit, downpayment, and balance due prior to closing consistent with the amounts set forth in the purchase documents and receipt for deposit if one is required by Section 18035.1. The deposits shall be made by the dealer within three working days of receipt, one of which shall be the day of receipt. For purposes of this section, "cash equivalent" means any property, other than cash. If an item of cash equivalent is, due to its size, incapable of physical delivery to the escrow holder, the property may be held by the dealer for the purchaser until close of escrow and, if the property has been registered with the department or the Department of Motor Vehicles, its registration certificate and, if available, its certificate of title shall be delivered to the escrow holder.

(b) For every sale by a dealer of a new manufactured home or mobilehome, the escrow instructions shall provide all of the following:

(1) That the original manufacturer's certificate of origin be placed in escrow.

(2) That, in the alternative, either of the following shall occur:

(A) The lien of any inventory creditor on the manufactured home or mobilehome shall be satisfied by payment from the escrow account.

(B) The inventory creditor shall consent in writing to other than full payment.

For purposes of this paragraph, "inventory creditor" includes any person who is identified as a creditor on the manufacturer's certificate of origin or any person who places the original certificate of origin in escrow and claims in writing to the escrow agent to have a purchase money security interest in the manufactured home or mobilehome, as contemplated by Section 9107 of the Commercial Code.

(3) That the escrow agent shall obtain from the manufacturer a true and correct facsimile of the copy of the certificate of origin retained by the manufacturer pursuant to Section 18093.

(c) For every sale by a dealer of a used manufactured home or mobilehome, the escrow instructions shall provide:

(1) That the current registration card, all copies of the registration cards held by junior lienholders, and the certificate of title be placed in escrow.

(2) That, in the alternative, either of the following shall occur:

(A) (i) The registered owner shall acknowledge in writing the amount of the commission to be received by the dealer for the sale of the manufactured home or mobilehome, and (ii) the registered owner shall release all of its ownership interests in the manufactured home or mobilehome either contemporaneously upon the payment of a specified amount from the escrow account or at the close of the escrow where the buyer has executed a security agreement approved by the registered owner covering the unpaid balance of the purchase price.

(B) (i) The dealer shall declare in writing that the manufactured home or mobilehome is its inventory, (ii) the registered owner shall acknowledge in writing that the purchase price relating to the sale of the manufactured home or mobilehome to the dealer for resale has been paid in full by the dealer, (iii) the current registration card shall be appropriately executed by the registered owner to reflect the release of all of its ownership interests, and (iv) the dealer shall release all of its ownership interests in the manufactured home or mobilehome either contemporaneously upon the payment of a specified amount from the escrow account or at the close of escrow where the buyer has executed a security agreement approved by the dealer covering the unpaid balance of the purchase price.

(3) That, in the alternative, the legal owner and each junior lienholder, respectively, shall either:

(A) Release his or her security interest or transfer its security interest to a designated third party contemporaneously upon the payment of a specified amount from the escrow account.

(B) Advise the escrow agent in writing that the new buyer or the buyer's stated designee shall be approved as the new registered owner upon the execution by the buyer of a formal assumption of the indebtedness secured by his or her lien approved by the creditor at or before the close of escrow.

(d) For every sale by a dealer of a used manufactured home or mobilehome:

(1) The dealer shall present the buyer's offer to purchase the manufactured home or mobilehome to the seller in written form signed by the buyer. The seller, upon accepting the offer to purchase, shall sign and date the form. Copies of the fully executed form shall be presented to both the buyer and seller, with the original copy retained by the dealer. Any portion of the form which reflects the commission charged by the dealer to the seller need not be disclosed

to the buyer.

(2) The escrow agent, upon the opening of the escrow and receipt of notification from the dealer that the seller has accepted the buyer's offer to purchase, shall, within three working days, prepare a notice of escrow opening on the form prescribed by the department and forward the completed form to the department with appropriate fees. If the escrow is cancelled for any reason before closing, the escrow agent shall prepare a notice of escrow cancellation on the form prescribed by the department and forward the completed form to the department.

(3) (A) The escrow agent shall forward to the legal owner and each junior lienholder at their addresses shown on the current registration card a written demand for a lien status report, as contemplated by Section 18035.5, and a written demand for either an executed statement of conditional lien release or an executed statement of anticipated formal assumption, and shall enclose blank copies of a statement of conditional lien release and a statement of anticipated formal assumption on forms prescribed by the department. The statement of conditional lien release shall include, among other things, both of the following:

(i) A statement of the dollar amount or other conditions required by the creditor in order to release or transfer its lien.

(ii) The creditor's release or transfer of the lien in the manufactured home or mobilehome contingent upon the satisfaction of those conditions.

(B) The statement of anticipated formal assumption shall include, among other things, both of the following:

(i) A statement of the creditor's belief that the buyer will formally assume the indebtedness secured by its lien pursuant to terms and conditions which are acceptable to the creditor at or before the close of escrow.

(ii) The creditor's approval of the buyer or his or her designee as the registered owner upon the execution of the formal assumption.

(4) Within five days of the receipt of the written demand and documents required by paragraph (3), the legal owner or junior lienholder shall complete and execute either the statement of conditional lien release or, if the creditor has elected to consent to a formal assumption requested by a qualified buyer, the statement of anticipated formal assumption, as appropriate, and prepare the lien status report and forward the documents to the escrow agent by first-class mail. If the creditor is the legal owner, the certificate of ownership in an unexecuted form shall accompany the documents. If the creditor is a junior lienholder, the creditor's copy of the current registration card in an unexecuted form shall accompany the documents.

(5) If either of the following events occur, any statement of conditional lien release or statement of anticipated formal assumption executed by the creditor shall become inoperative, and the escrow agent shall thereupon return the form and the certificate

of ownership or the copy of the current registration card, as appropriate, to the creditor by first-class mail:

(A) The conditions required in order for the creditor to release or transfer his or her lien are not satisfied before the end of the escrow period agreed upon in writing between the buyer and the seller or, if applicable, before the end of any extended escrow period as permitted by subdivision (g).

(B) The registered owner advises the creditor not to accept any satisfaction of his or her lien or not to permit any formal assumption of the indebtedness and the creditor or registered owner advises the escrow agent in writing accordingly.

(6) If a creditor willfully fails to comply with the requirements of paragraph (4) within 21 days of the receipt of the written demand and documents required by paragraph (3), the creditor shall forfeit to the escrow agent three hundred dollars ($300), except where the creditor has reasonable cause for noncompliance. The three hundred dollars ($300) shall be credited to the seller, unless otherwise provided in the escrow instructions. Any penalty paid by a creditor under this paragraph shall preclude any civil liability for noncompliance with Section 18035.5 relating to the same act or omission.

(e) The escrow instructions shall specify one of the following:

(1) Upon the buyer receiving delivery of an installed manufactured home or mobilehome on the site and the manufactured home or mobilehome passing inspection pursuant to Section 18613 or after the manufactured home or mobilehome has been delivered to the location specified in the escrow instructions when the installation is to be performed by the buyer, all funds in the escrow account, other than escrow fees and amounts for accessories not yet delivered, shall be disbursed.

(2) Upon the buyer receiving delivery of an installed manufactured home or mobilehome not subject to the provisions of Section 18613 with delivery requirements as mutually agreed to and set forth in the sales documents, all funds in the escrow account, other than escrow fees, shall be disbursed.

(f) In the event any dispute arises between the parties to the escrow and upon notification in writing to the escrow agent, unless otherwise specified in the escrow instructions, all funds denoted as deposit shall be held in escrow until a release is signed by the disputing party, or pursuant to new written escrow instructions signed by the parties involved, or pursuant to a final order for payment or division by a court of competent jurisdiction. Any other funds, other than escrow fees, shall be returned to the buyer or any person, other than the dealer or seller, as appropriate.

(g) Escrow shall be for a period of time mutually agreed upon, in writing, by the buyer and the seller. However, the parties may, by mutual consent, extend the time, in writing, with notice to the escrow agent.

(h) No dealer or seller shall establish with an escrow agent any

escrow account in an escrow company in which the dealer or seller has more than a 5 percent ownership interest.

(i) The escrow instructions may provide for the proration of any local property tax due or to become due on the manufactured home or mobilehome, and if the tax, or the license fee imposed pursuant to Section 18115, or the registration fee imposed pursuant to Section 18114, is delinquent, the instructions may provide for the payment of the taxes or fees, or both, and any applicable penalties.

(j) No agreement shall contain any provision by which the buyer waives his rights under this section, and any waiver shall be deemed contrary to public policy and shall be void and unenforceable.

(k) If a portion of the amount in the escrow is for accessories, then that portion of the amount shall not be released until the accessories are actually installed.

(*l*) This section creates a civil cause of action against a buyer or dealer or other seller who violates the provisions of this section, and upon prevailing, the plaintiff in the action shall be awarded actual damages, plus an amount not in excess of two thousand dollars ($2,000). In addition, attorney's fees and court costs shall also be awarded a plaintiff who prevails in the action.

SEC. 7.5. Section 18035.2 of the Health and Safety Code is amended to read:

18035.2. (a) For every sale by a dealer of a new or used manufactured home or mobilehome to be installed on a foundation system pursuant to Section 18551, the dealer shall execute in writing and obtain the buyer's signature on a purchase order, conditional sale contract, or other document evidencing the purchase, and provide a statement of fact complying with subdivision (b) of Section 18035.1, contemporaneous with or prior to the receipt of any cash or cash equivalent from the buyer and shall establish an escrow account with an escrow agent. The escrow shall not be subject to the provisions of Section 18035.

(b) For every sale by a dealer of a new manufactured home or mobilehome installed or to be installed on a foundation system pursuant to Section 18551, the escrow instructions shall provide all of the following:

(1) That the original manufacturer's certificate of origin be placed in escrow.

(2) That, in the alternative:

(A) The lien of any inventory creditor on the manufactured home or mobilehome shall be satisified by payment from the escrow account.

(B) Such inventory creditor shall consent in writing to other than full payment.

For purposes of this paragraph, "inventory creditor" includes any person who is identified as a creditor on the manufacturer's certificate of origin or any person who places the original certificate of origin in escrow and claims in writing to the escrow agent to have a purchase money security interest in the manufactured home or

mobilehome as contemplated by Section 9107 of the Commercial Code.

(3) That the escrow agent shall obtain from the manufacturer a true and correct facsimile of the copy of the certificate of origin retained by the manufacturer pursuant to Section 18093.

SEC. 8. Section 18037.5 of the Health and Safety Code is amended to read:

18037.5. (a) In the event of default under the provisions of any security agreement relating to a loan or conditional sale contract which, according to its terms, gives the secured party the right to foreclose its security interest in a manufactured home or mobilehome subject to registration under this part which is not inventory of a dealer, including the right to repossess the property, notwithstanding any contrary provisions in the security agreement or conditional sale contract or in any other agreement entered into prior to default, the secured party may foreclose its security interest only by satisfying the requirements of this section.

(1) Unless the registered owner of the manufactured home or mobilehome has abandoned the property or has voluntarily surrendered possession of the property to the foreclosing creditor, the foreclosing creditor shall deposit or cause to be deposited in the United States mail an envelope addressed to each registered owner as shown on the current registration of the manufactured home or mobilehome, registered or certified with postage prepaid, containing a notice in substantially the following form and in at least 10-point type, which notice shall be signed by the foreclosing creditor:

NOTICE OF DEFAULT

To: _____

(names of all registered owners)

You (if the registered owner is not the person who is in default, substitute name of defaulting person(s)) are in default under the terms of the _____

(identify security

_____

agreement by title or caption and date)

in that _____ .

(describe default)

This default gives the creditor named below the right to sell your manufactured home or mobilehome which is registered with the Department of Housing and Community Development under registration number(s)

_____, located at

(give registration number(s))

_____

(give location of property as shown on current registration)

unless the default is promptly cured.

You may cure the default by _____
(describe conditions

_____
precedent to reinstatement required to cure default)
or by entirely repaying the outstanding secured indebtedness on or before _____
(state final date available for

_____ .
cure, which date shall be no earlier than 45 days after mailing of the notice)
To cure the default you may also be required to reimburse the creditor for its reasonable attorney's fees and legal expenses and for any other sums to which the creditor may have become entitled under the terms of your credit agreement after the date of this notice. You may entirely repay the outstanding obligation by paying the creditor _____
(state dollar amount required to obtain release of security interest, and if the amount may increase due to passage of time, state that fact)
plus any amount necessary to reimburse the creditor for its reasonable attorney's fees and legal expenses and any other sums to which the creditor may have become entitled after the date of this notice under the terms of your agreement.

(2) Within five days following the mailing of the notice of default required by paragraph (1), the foreclosing creditor shall forward a copy thereof to the legal owner shown on the current registration card, if different than the foreclosing creditor, and to each junior lienholder shown on the current registration card, if different than the foreclosing creditor, and, effective July 1, 1985, to the department. The notice shall be forwarded to each party in the same manner as provided for mailing the original notice to the registered owner.

(3) In the event of default under the provisions of any security agreement relating to a loan or conditional sale contract which, according to its terms, gives the secured party the right to foreclose its security interest in a manufactured home or mobilehome, each registered owner and each junior lienholder having a security interest which is subordinate to the security interest of the foreclosing creditor shall have the right to cure the default by the methods and in the manner prescribed in the notice within 45 days after mailing of the notice to the registered owner required by

paragraph (1).

(4) If the default is not cured within the time indicated on the notice required by paragraph (1), or if the property has been abandoned by the registered owner or voluntarily surrendered by the registered owner to the foreclosing creditor, the creditor may proceed to sell the property at private or public sale pursuant to the provisions of Section 9504 of the Commercial Code, except as provided in paragraph (5) and subdivision (c). The notice of sale required by Section 9504 of the Commercial Code shall not be mailed or delivered before expiration of the period for the right to cure the default, as stated in the notice required by paragraph (1), unless the property has been abandoned by the registered owner or voluntarily surrendered by the registered owner to the foreclosing creditor.

(5) Notwithstanding any contrary provisions of Section 9504 of the Commercial Code, the foreclosing creditor shall deposit or cause to be deposited in the United States mail, registered or certified with postage prepaid, an envelope containing the notice of sale addressed to each party to whom the notice of default was mailed pursuant to paragraph (2). The notice of sale shall be given at least 10 days before the date fixed for a public sale or on or after which any private sale is to be made.

(6) For purposes of this subdivision, a manufactured home or mobilehome shall be deemed abandoned if the foreclosing creditor gives written notice of its belief of abandonment to the registered owner as provided in this paragraph and the registered owner fails to give the foreclosing creditor written notice, prior to the appropriate date specified in the foreclosing creditor's notice, stating that the registered owner has not abandoned and does not intend to abandon the manufactured home or mobilehome and stating an address at which the registered owner may be served by certified mail with a summons in connection with any legal action which the foreclosing creditor may appropriately initiate. The foreclosing creditor may give a notice of belief of abandonment only where it reasonably believes that the registered owner has abandoned the manufactured home or mobilehome. The notice of belief of abandonment shall be personally delivered to the registered owner or sent by registered or certified mail, with postage prepaid, to the registered owner at his or her last known address and, if there is reason to believe that the notice sent to that address will not be received by the registered owner, to any other address, if any, known to the foreclosing creditor where the registered owner may reasonably be expected to receive the notice. The notice of belief of abandonment shall be in substantially the following form in at least 10-point type:

NOTICE OF BELIEF OF ABANDONMENT

To: _____

(names of all registered owners)

This notice is given pursuant to Section 18037.5 of the Health and Safety Code concerning your manufactured home or mobilehome located at

_____ .

(address of manufactured home or mobilehome as shown on current registration)

You _____

(if the registered owner is not the person who is in default, substitute name of defaulting person(s))

are in default under the terms of the

_____

(identify security agreement or conditional sale contract by title or caption and date)

in that_____. This default gives the

(describe default)

creditor named below the right to sell your manufactured home or mobilehome which is registered with the Department of Housing and Community Development under number(s) _____

(give registration number(s))

unless the default is promptly cured. Unless the creditor receives a written notice from you to the contrary by

_____ ,

(insert a date not less than 15 days after this notice is served personally or, if mailed, not less than 18 days after this notice is deposited in the mail)

your manufactured home or mobilehome will be deemed abandoned, which means that the creditor may sell your manufactured home or mobilehome sooner than would otherwise be permitted by law. The written notice you must send to the creditor shall be sent to

_____

(address of foreclosing creditor)

and shall state both of the following:

1. Your intent not to abandon the manufactured home or mobilehome.

2. An address at which you may be served by certified mail with a summons in connection with any legal action which the foreclosing creditor may appropriately initiate.

_____

(name of creditor)

_____

(signature of creditor)

(b) In the event of default under the provisions of any security agreement relating to a loan or a conditional sale contract in which the collateral is a manufactured home or mobilehome subject to registration under this part which is inventory of a dealer or a commercial coach, the secured party may repossess and dispose of

the collateral in accordance with the provisions of the security agreement or conditional sale contract and applicable law, including the provisions of Division 9 (commencing with Section 9101) of the Commercial Code. Upon repossession of a manufactured home or mobilehome subject to registration under this part which is inventory of a dealer or a commercial coach subject to registration under this part, the secured creditor shall prepare and forward to the department a notice of repossession on the form prescribed by the department.

(c) The proceeds of the sale of a manufactured home, mobilehome, or commercial coach shall be applied, in the following order, to:

(1) The reasonable and necessary expenses incurred for preparing for and conducting the sale and, if the foreclosing creditor has obtained possession of the collateral prior to the disposition, the reasonable and necessary expenses for the retaking and holding of the collateral and to the extent provided for in the agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the foreclosing creditor in retaking the property from any person not a party to the credit contract.

(2) The satisfaction of the indebtedness secured by the security interest of the foreclosing creditor under which the disposition is made.

(3) The satisfaction of indebtedness secured by any subordinate liens or encumbrances on the property in the order of their priority as provided in Section 18105, if with respect to a junior creditor written notification of demand therefor is received before distribution of the proceeds is completed, and to the satisfaction of any subordinate attachment lien or execution lien pursuant to subdivision (b) of Section 701.040 of the Code of Civil Procedure if notice of the levy of attachment or execution is received before distribution of the proceeds is completed. If requested by the foreclosing creditor, the holder of a subordinate lien or encumbrance shall furnish reasonable proof of his or her interest, and unless it does so, the foreclosing creditor need not comply with its demand.

(4) The satisfaction of indebtedness secured by all senior liens or encumbrances in the order of their priority as provided in Section 18105, if with respect to a senior creditor written demand therefor is received by the foreclosing creditor before distribution of the proceeds is completed. If requested by the foreclosing creditor, the holder of a senior lien or encumbrance shall furnish reasonable proof of his or her interest, and unless he or she does so, the foreclosing creditor need not comply with his or her demand.

(5) To the registered owner within 45 days after the sale is conducted if a surplus remains.

(d) Unless automatically provided to the registered owner within 45 days after the sale of a manufactured home or mobilehome if a request for an accounting is made within one year of the sale, the foreclosing creditor shall provide to the registered owner a written

accounting containing the gross sales proceeds and its allocation pursuant to subdivision (c). In the event any surplus is paid to the registered owner pursuant to paragraph (5) of subdivision (c), the foreclosing creditor shall furnish such an accounting whether or not requested by the registered owner.

SEC. 9. Section 18050 of the Health and Safety Code is amended to read:

18050. (a) Every applicant for an occupational license shall make application to the department for a license containing a general distinguishing number.

(b) The applicant shall submit all information as may be reasonably required by the department in carrying out the provisions of this chapter, including, but not limited to, proof of successful completion within the previous six months of the appropriate department examination and proof of his or her status as a bona fide manufacturer, distributor, dealer, dealer branch, or salesperson.

(c) Every applicant shall submit an application to the department on the forms prescribed by the department. The applicant shall provide the department with information as to the applicant's character, honesty, integrity, and reputation, as the department may consider necessary. The department, by regulation, shall prescribe what information is required of the applicant for the purposes of this subdivision.

(d) Upon receipt of a complete application for a license which is accompanied by the appropriate fee, the department shall, within 120 days, make a thorough investigation of the information contained in the application.

SEC. 10. Section 18054 of the Health and Safety Code is amended to read:

18054. (a) The department, upon granting a license, shall issue to the applicant a license with a size and format established by the department containing at least the applicant's name and address, the general distinguishing number assigned to the applicant and expiration date. For salespersons, the license shall also state the name and address of the employing dealer.

(b) Upon presentation of authority from the Public Utilities Commission showing valid status as a transporter, a transporter may apply for, and the department, subject to the requirements of Section 18063.8, shall issue, transportation decals or other visual displays which shall have a general distinguishing number assigned to the applicant. The department may issue transportation decals or other visual displays to federal, state, city, or county agencies for intermittent relocations of exempt manufactured homes, mobilehomes, or commercial coaches, or to dealers, distributors, or manufacturers for the delivery of manufactured homes, mobilehomes, or commercial coaches. Fees for the decal or visual display shall be established by the department and shall be paid by the applicant at the time the application is made.

(c) A manufacturer, dealer, or distributor for the purpose of transporting manufactured homes, mobilehomes, or commercial coaches requiring delivery or relocation while in inventory, may apply for, and the department shall, subject to the requirements of Section 18063.8, issue transportation decals or other visual displays which shall have the license number assigned pursuant to this section. Fees for transportation decals or visual display, shall be established by the department and paid by the applicant at the time the application is made.

(d) The department shall also furnish books and forms as it may determine necessary. All books, forms, and licenses and decals shall remain the property of the department and may be taken up at any time for inspection.

(e) A licensee shall promptly obtain a replacement license when the original is either lost or mutilated, and, in the case of a salesperson, when changing his or her name, employment, or residence address.

(f) Whenever the department cancels, suspends, or revokes a license or decal, the licensee or person in possession shall immediately return the license, documents, transportation decals, report of sales books, certificates, and other evidence of licensure to the department.

SEC. 11. Section 18059.5 of the Health and Safety Code is amended to read:

18059.5. With respect to escrows and sales practices, it is unlawful to do any of the following:

(a) Violate any of the terms or provisions of Chapter 5 (commencing with Section 18035), relating to purchase documents, receipts for deposit, escrow, and sales practices, or any rule, regulation, or order issued by the department pursuant thereto.

(b) Intentionally withhold or provide false information to an escrow company or to any person or firm holding or acquiring an ownership or security interest in the manufactured home or mobilehome being sold or purchased.

SEC. 12. Section 18060 of the Health and Safety Code is amended to read:

18060. With respect to business operations, it is unlawful to do any of the following:

(a) Make, or knowingly or negligently permit, any illegal use of any special permits, transportation decals, or reports of sales books issued to, or in favor of, a licensee or transporter.

(b) Submit a check, draft, or money order to the department for any obligation or fee due the department which is thereafter dishonored or refused payment upon presentation.

(c) Engage in the business for which the licensee is licensed without having in force and effect a good and sufficient bond as provided by this part. This prohibition is in addition to the automatic suspension remedy in Section 18046.

(d) Fail to notify the department, within 10 days, of any change

in the ownership or corporate structure of the licensee, or of the employment or termination of a manufactured home, mobilehome, or commercial coach salesperson.

SEC. 13. Section 18060.5 of the Health and Safety Code is amended to read:

18060.5. With respect to business practices, it is unlawful to do any of the following:

(a) Knowingly purchase, sell, or otherwise acquire or dispose of a stolen manufactured home, mobilehome, or commercial coach.

(b) Violate any of the terms or provisions of regulations promulgated under the authority of Section 18015.

(c) Cause the state or any person to suffer any loss or damage by reason of any fraud or deceit practiced on them or fraudulent representations made to any person in the sale or purchase of a manufactured home, mobilehome, or commercial coach or parts or accessories thereof.

(d) Violate any of the terms and conditions of Chapter 3 (commencing with Section 1797) of Title 1.7 of Part 4 of Division 3 of the Civil Code.

(e) Move a manufactured home, mobilehome, or commercial coach subject to registration pursuant to this part from a mobilehome park or other site of installation to another location, without obtaining from the legal owner, written consent for the move as prescribed in Section 18099.5.

(f) Include as an added cost to the selling price of a manufactured home, mobilehome, or commercial coach, an amount for licensing or transfer of title of the manufactured home, mobilehome, or commercial coach, which amount is not due to the state unless, prior to the sale, the amount has been paid by a dealer to the state in order to avoid penalties that would have accrued because of late payment of those fees. However, a dealer may collect from the second purchaser of a manufactured home, mobilehome, or commercial coach, a prorated fee based upon the number of months remaining in the registration year for that manufactured home, mobilehome, or commercial coach, if the manufactured home, mobilehome, or commercial coach was previously sold by the dealer and the sale was subsequently rescinded and all the fees that were paid, as required by this part and Chapter 2 (commencing with Section 10751) of Division 2 of the Revenue and Taxation Code, were returned to the first purchaser of the manufactured home, mobilehome, or commercial coach.

(g) Participate in the sale of a manufactured home, mobilehome, or commercial coach reported to the Department of Motor Vehicles under Section 5900 of the Vehicle Code or to the department pursuant to this part without making the return and payment of any sales tax due and required by Section 6451 of the Revenue and Taxation Code.

(h) Fail to exercise reasonable supervision over the activities of employees who negotiate or promote the sale of manufactured

homes, mobilehomes, or commercial coaches.

(i) Display for sale, offer for sale, or sell, a manufactured home, mobilehome, or commercial coach, representing that manufactured home, mobilehome, or commercial coach to be of a year model different from the year model designated at the time of manufacture or first assembly as a completed manufactured home, mobilehome, or commercial coach.

(j) Directly or indirectly authorize or advise another licensee to change the year model of a manufactured home, mobilehome, or commercial coach in the inventory of the other licensee.

SEC. 14. Section 18061 of the Health and Safety Code is amended to read:

18061. With respect to advertising, it is unlawful:

(a) To make or disseminate or cause to be made or disseminated before the public in this state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or by any other manner or means whatsoever, any statement which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, or to so make or disseminate or cause to be so disseminated any statement as part of a plan or scheme with the intent not to sell any manufactured home, mobilehome, or commercial coach or service so advertised at the price therein, or as so advertised.

(b) To advertise or offer for sale or exchange in any manner, any manufactured home, mobilehome, or commercial coach not actually for sale at the premises of the dealer or available to the dealer through a listing agreement executed by the seller or from a manufacturer or distributor at the time of the advertisement or offer. However, this subdivision does not apply to advertising or offering for sale or exchange any used manufactured home, used mobilehome, or used commercial coach where the advertising or offering for sale is not contrary to any terms of a contract between the seller of the manufactured home, mobilehome, or commercial coach and the owner of the mobilehome park, and which manufactured home, mobilehome, or commercial coach is either in place on a lot rented or leased for human habitation within an established mobilehome park, or is otherwise located, pursuant to a local zoning ordinance or permit, on a lot where its presence has been authorized or its continued presence and use would be authorized for a total and uninterrupted period of at least one year.

(c) To fail, within 48 hours, in writing, to withdraw any advertisement of a manufactured home, mobilehome, or commercial coach that has been sold or withdrawn from sale.

(d) To advertise or represent a manufactured home, mobilehome, or commercial coach as a new manufactured home, mobilehome, or commercial coach if the manufactured home, mobilehome, or commercial coach has been previously installed as a model without also advertising that it was a model.

(e) To advertise or otherwise represent, or knowingly to allow to

be advertised or represented on his or her behalf, or at his or her established place of business, that no downpayment is required in connection with the sale of a manufactured home, mobilehome, or commercial coach when a downpayment is in fact required and the buyer is advised or induced to finance the downpayment by a loan in addition to any other loan financing the remainder of the purchase price of the manufactured home, mobilehome, or commercial coach.

SEC. 15. Section 18080 of the Health and Safety Code is amended to read:

18080. Ownership registration and title to a manufactured home, mobilehome, or commercial coach subject to registration may be held by two or more coowners as follows:

(a) A manufactured home, mobilehome, or commercial coach may be registered in the names of two or more persons as joint tenants. Upon the death of a joint tenant the interest of the decedent shall pass to the survivor or survivors. The signature of each joint tenant or survivor or survivors, as the case may be, shall be required to transfer or encumber the title to the manufactured home, mobilehome, or commercial coach.

(b) A manufactured home, mobilehome, or commercial coach may be registered in the names of two or more persons as tenants in common. If the names of the tenants in common are separated by the word "and", each tenant in common may transfer his or her individual interest in the manufactured home, mobilehome, commercial coach, or truck camper without the signature of the other tenant or tenants in common. However, the signature of each tenant in common shall be required to transfer full interest in the title to a new registered owner. If the names of the tenants in common are separated by the word "or", any one of the tenants in common may transfer full interest in the title to the manufactured home, mobilehome, commercial coach, or truck camper to a new registered owner without the signature of the other tenant or tenants in common. The signature of each tenant in common is required in all cases to encumber the title to the manufactured home, mobilehome, or commercial coach.

(c) A manufactured home, mobilehome, commercial coach, or truck camper may be registered as community property in the names of a husband and wife. The signature of each spouse shall be required to transfer or encumber the title to the manufactured home, mobilehome, commercial coach, or truck camper.

(d) All manufactured homes, mobilehomes, commercial coaches, or truck campers registered, on or before January 1, 1985, in the names of two or more persons as tenants in common, as provided in subdivision (b) shall be considered to be the same as if the names of the tenants in common were separated by the word "or", as provided in subdivision (b).

SEC. 16. Section 18080.1 of the Health and Safety Code is amended to read:

18080.1. The registration of a manufactured home, mobilehome,

commercial coach, or truck camper may be held in the name of a company, an estate, a trusteeship, a conservatorship, a guardianship, or an individual owner's name, as follows:

(a) In the case of an individual owner, the manufactured home, mobilehome, commercial coach, or truck camper shall be registered in the true name of the individual owner only. Complimentary or professional titles may be added to the true name only if the individual is commonly addressed by that title.

(b) In the case of a trusteeship or guardianship, the manufactured home, mobilehome, commercial coach, or truck camper shall be registered in the name of the person or persons designated as the trustees or conservators or guardians followed by the word "trustee," "guardian" or "conservator," whichever is appropriate. Transfer of ownership or encumbrance of a manufactured home, mobilehome, commercial coach, or truck camper so registered shall require the signatures of all designated trustees, conservators, or guardians, as evidenced by appropriate documentation.

(c) In the case of a manufactured home, mobilehome, commercial coach, or truck camper registered in the name of a company, the application for registration shall be countersigned by an officer or authorized agent of the company. Transfer of ownership or encumbrance of a manufactured home, mobilehome, or commercial coach so registered shall require the signature of an officer or authorized agent of the company.

(d) In the case of a manufactured home, mobilehome, commercial coach, or truck camper registered to an estate, the application for registration shall be signed by the appointed executor or administrator of the estate, as evidenced by appropriate documentation. Transfer of ownership or encumbrance of a manufactured home, mobilehome, commercial coach, or truck camper so registered shall require the signature of the appointed executor or administrator, as evidenced by appropriate documentation.

SEC. 16.5. Section 18080.5 of the Health and Safety Code is amended to read:

18080.5. (a) When selling a manufactured home, mobilehome, or commercial coach, dealers shall use numbered report-of-sale forms issued by the department. The forms shall be used in accordance with the following terms and conditions:

(1) A copy of the report of sale shall be delivered to the purchaser.

(2) All fees and penalties due for registration or transfer of registration of the manufactured home, mobilehome, or commercial coach shall be paid to the department within 10 calendar days from the date of sale. Penalties due for noncompliance with this paragraph shall be paid by the dealer. The dealer shall not charge the purchaser for those penalties.

(3) Notice of the sale of a manufactured home, mobilehome, or commercial coach shall be reported pursuant to subdivision (c).

(4) The original report-of-sale form together with all required

documents to either report the sale or make application to register or transfer a manufactured home, mobilehome, or commercial coach shall be forwarded to the department. Any application shall be submitted within 10 calendar days from the date of sale.

(b) A manufactured home, mobilehome, or commercial coach displaying a copy of the report of sale may be occupied without registration decals or registration card until the registration decals and registration card are received by the purchaser.

(c) In addition to the other requirements of this section every dealer upon transferring by sale, lease, or otherwise any manufactured home, mobilehome, or commercial coach shall, not later than the 10th calendar day thereafter, not counting the date of sale, give written notice of the transfer to the assessor of the county where the manufactured home, mobilehome, or commercial coach is to be installed. The written notice shall be upon forms provided by the department containing any information that the department may require, after consultation with the assessors. Filing of a copy of the notice with the assessor in accordance with this section shall be in lieu of filing a change of ownership statement pursuant to Sections 480 and 482 of the Revenue and Taxation Code.

(d) For purposes of this section, a "sale" shall be deemed completed and consummated when any of the following occurs:

(1) The purchaser of a commercial coach has signed a purchase contract or security agreement, or the lessee of a new commercial coach has signed a lease agreement, has paid any purchase price, and has taken physical possession or delivery of the commercial coach.

(2) For sales subject to Section 18035 or 18035.2, when all the amounts other than escrow fees and amounts for uninstalled or undelivered accessories are disbursed from the escrow account.

SEC. 17. Section 18090.5 of the Health and Safety Code is amended to read:

18090.5. (a) Except as otherwise provided in Section 18089, the department, upon the original registration of a manufactured home, mobilehome, commercial coach, or truck camper, shall establish a permanent title record for the manufactured home, mobilehome, or commercial coach and shall issue a certificate of title to the legal owner and a registration card to the registered owner.

(b) The department shall designate on the permanent title record as the legal owner the holder, if any, of the perfected security interest in the manufactured home, mobilehome, commercial coach, or truck camper. If there is more than one perfected security interest, the holder of the security interest designated in the application for the original registration as the legal owner shall be the legal owner.

(c) The department shall designate on the permanent title record as junior lienholders those holders, if any, of perfected security interests in the manufactured home, mobilehome, commercial coach, or truck camper other than the legal owner. If there is more than one junior lienholder, they shall be listed on the permanent title

record in the same order as is designated in the application for the original registration. A copy of the registration card shall be sent to each junior lienholder.

(d) If an application for registration specifies more than one secured creditor and the department is unable to determine from the application which creditor is to be the legal owner, or the seniority order in which junior lienholders are to be designated, the department shall so notify the applicant for registration and all secured creditors and shall withhold registration or transfer of registration until the department receives such designation.

(e) The certificate of title and the registration card issued pursuant to this section shall show the name and address of all registered owners, the legal owner, if any, and all junior lienholders, if any, with the junior lienholders listed in the same order as designated on the permanent title record.

SEC. 18. Section 18100.5 of the Health and Safety Code is amended to read:

18100.5. (a) If the title or interest of a registered owner, legal owner, or junior lienholder in a manufactured home, mobilehome, commercial coach, or truck camper for which an original registration under this part has been obtained is transferred to another person, or if all outstanding secured obligations previously held by a legal owner registered on the original or a subsequent registration or by a junior lienholder are satisfied and the person no longer has any obligation to extend credit, incur obligations, or otherwise give value to be secured by the manufactured home, mobilehome, commercial coach, or truck camper, or if a security interest is taken in a manufactured home, mobilehome, commercial coach, or truck camper after the permanent title record has been established, the department shall be notified within 20 days and shall act as follows:

(1) If the title or interest of a registered owner or legal owner is being transferred, the transferor and the transferee of the title or interest shall execute in the manner prescribed by the department the certificate of title for the manufactured home, mobilehome, commercial coach, or truck camper. If the transfer is made by a registered owner and the transferee is to assume the underlying indebtedness secured by the manufactured home, mobilehome, commercial coach, or truck camper and owed to a legal owner, the legal owner shall state on the certificate of title that legal title and interest are to be retained. The certificate of title so executed shall be fowarded to the department with appropriate fees. The department shall appropriately amend the permanent title record of the manufactured home, mobilehome, commercial coach, or truck camper, forward a new certificate of title reflecting the change to the permanent title record to the legal owner by first-class mail, and forward an amended registration card reflecting the change to the permanent title record to the registered owner with copies to all secured parties shown on the permanent title record. If there is no legal owner, the new certificate of title and amended registration

card shall be forwarded to the registered owner.

(2) If the interest of a junior lienholder is being transferred, the transferor and the transferee shall execute, in a manner prescribed by the department, the registration card, and the card so executed shall be forwarded to the department with appropriate fees. The department shall appropriately amend the permanent title record and forward an amended registration card reflecting the change to the permanent title record to the registered owner with copies to all secured parties shown on the permanent title record.

(3) If a creditor acquires a security interest in a manufactured home, mobilehome, commercial coach, or truck camper after the permanent title record has been established, the department shall amend the permanent title record to reflect the interest as that of a legal owner or as that of a junior lienholder, as appropriate. If the permanent title record already reflects the interest of one or more junior lienholders, the creditor then perfecting its interest pursuant to this section shall be designated as the most junior lienholder.

(4) If a legal owner no longer holds an outstanding obligation or a commitment to make advances, incur obligations, or otherwise give value to be secured by the manufactured home, mobilehome, commercial coach, or truck camper, the legal owner shall indicate its release of lien by appropriately signing the certificate of title for the manufactured home, mobilehome, commercial coach, or truck camper and forward the certificate of title to the department with appropriate fees. The department shall appropriately amend the permanent title record for the manufactured home, mobilehome, commercial coach, or truck camper, deliver a new certificate of title reflecting the change to the permanent title record to the new legal owner, if any, by first-class mail, and forward an amended registration card reflecting the change to the permanent title record to the registered owner with copies to all secured parties shown on the registration card. For purposes of this paragraph, the following person shall be designated as the new legal owner:

(A) The junior lienholder, if any.

(B) If there is more than one junior lienholder, the junior lienholder whose statement of lien was designated as the most senior junior lienholder on the permanent title record shall be the legal owner.

(5) If a junior lienholder no longer holds an outstanding obligation or a commitment to make advances, incur obligations, or otherwise give value to be secured by the manufactured home, mobilehome, commercial coach, or truck camper, the junior lienholder shall forward to the department, on the appropriate form approved by the department, a statement of lien release with appropriate fees. The department shall appropriately amend the permanent title record for the manufactured home, mobilehome, commercial coach, or truck camper and forward an amended registration card reflecting the change to the permanent title record to the registered owner with copies to all secured parties shown on the permanent title

record.

(b) (1) Notwithstanding the provisions of subdivision (d) of this section and subdivisions (c) and (e) of Section 18080.7, for the 120-day period beginning upon the receipt by the department of the notice of escrow and appropriate fee provided by paragraph (1) of subdivision (d) of Section 18035, or until the escrow is cancelled, or until the escrow closes and the resulting transfers of ownership interests and transfers or creation of legal owner and junior lienholder interests are acknowledged by the department as amendments to the permanent title record of the manufactured home or mobilehome, whichever is earlier, the department, except at its sole discretion, shall impose a moratorium on all of the following:

(A) On any other amendments to the permanent title record of the manufactured home or mobilehome for the purpose of transferring any ownership interest or transferring or creating any security interest in the manufactured home or mobilehome.

(B) On issuing any duplicate, substitute, or new certificate of title, registration card, or copy of a registration card regarding the manufactured home or mobilehome.

(C) On subsequent notices of escrow opening.

(2) The department shall, upon receipt of the notice of escrow and appropriate fee, forward to the escrow agent an acknowledgement of receipt and a true and correct copy of the permanent title record as of the commencement of the period of moratorium.

(c) If a secured party fails to comply with the provisions of subdivision (a) relating to releases of lien and the secured party thereafter receives a written demand from the registered owner that the secured party release its lien, the secured party shall be liable to the registered owner for all actual damages suffered by the registered owner by reason of the failure to release the lien unless the secured party, within 20 days of receipt of the demand, complies with the requirements of subdivision (a), except where the secured party has reasonable cause for noncompliance.

(d) Whenever the title or interest of the registered owner or legal owner in or to a manufactured home, mobilehome, commercial coach, or truck camper registered under this part passes to another in a manner, other than by voluntary transfer, the new registered owner or legal owner may obtain a transfer of registration upon application therefor and, upon presentation of the last certificate of title, if available, and current registration card, if available, issued for the manufactured home, mobilehome, and any instruments or documents of authority or certified copies thereof, as may be required by the department, or required by law, to evidence or effect the transfer of title or interest in that case. The department, when satisfied of the genuineness and regularity of the transfer, shall give notice by first-class mail to the registered owner, the legal owner, if any, and all junior lienholders, if any, of the manufactured

home, mobilehome, commercial coach, or truck camper as shown on the permanent title record, and, 15 days after the mailing of the notice, if still satisfied of the genuineness and regularity of the transfer, shall amend the permanent title record of the manufactured home, mobilehome, commercial coach, or truck camper, issue a new current registration card and certificate of title, and forward copies of the current registration card to all junior lienholders.

(e) The department shall not transfer registration until the applicant complies with the requirements of Section 18092.7.

SEC. 19. Section 18114 of the Health and Safety Code is amended to read:

18114. A registration fee of eleven dollars ($11) shall be paid the department at the time of registration or renewal for each transportable section of a manufactured home, mobilehome, commercial coach, or truck camper registered pursuant to this part. A registration fee due for the annual renewal of registration is delinquent if not paid on or before the expiration date of the previous registration year. A registration fee due for any application for registration, other than for annual renewal, is delinquent if not paid within 20 days after the date the fee became due. A charge of three dollars ($3) for each transportable section shall be added to delinquent registration fees. No additional charge shall be imposed on a registration fee received by mail after the date of delinquency if the fee was, by evidence of postmark, placed in the mail before midnight on the day prior to the day the fee became delinquent.

SEC. 20. Section 18117.5 of the Health and Safety Code is amended to read:

18117.5. The transfer fee is delinquent if not paid within 20 days of receipt by the transferee of a properly executed certificate of title for the manufactured home, mobilehome, commercial coach, or truck camper.

SEC. 21. Section 18303 of the Health and Safety Code is amended to read:

18303. This part does not apply to any mobilehome park, recreational vehicle park, or camping area owned, operated, and maintained by any of the following:

(a) The federal government.

(b) The state.

(c) Any agency or political subdivision of the state.

(d) Any city, county, or city and county.

SEC. 22. Section 20639.2 of the Revenue and Taxation Code is amended to read:

20639.2. (a) As used in this part, "mobilehome" means a mobilehome, as defined in Sections 18008 and 18211 of the Health and Safety Code, to which one of the following applies:

(1) It was first sold new on or after July 1, 1980.

(2) It was first sold new on or before June 30, 1980, and with respect to which the license fee required to be paid pursuant to Part

5 (commencing with Section 10701) of Division 2 has been delinquent for 120 days or more.

(3) It was first sold new on or before June 30, 1980, and a request for voluntary transfer to local property taxation was made pursuant to Section 18119 of the Health and Safety Code.

(b) "Mobilehome," as used in this part, does not include a mobilehome which has become real property by being affixed to land on a permanent foundation system or otherwise and is taxed as all other real property is taxed.

SEC. 23. Section 20639.6 of the Revenue and Taxation Code is amended to read:

20639.6. (a) Upon receipt of the information described in Section 20639.9, the Controller shall determine whether the state's interest would be adequately protected if postponement is granted, and, if so, the Controller shall issue to the claimant a certificate of eligibility containing the name of the claimant, address of the residential dwelling on which the claimant has applied for property tax postponement, and such other information and in such form as the Controller shall prescribe. In the event that the residential dwelling is located in a chartered city which levies and collects its own taxes, the Controller shall issue a duplicate certificate of eligibility to pay all or any part of property taxes appearing on the city's tax bill.

(b) The Controller shall forward to the Department of Housing and Community Development a notice of lien notifying the department that the mobilehome described in the statement has been approved for property tax postponement. The notice shall be in the form and contain the information prescribed by the Controller.

(c) The department, upon receipt of the notice, shall amend the permanent title record of the mobilehome to record the fact that postponement has been approved.

(d) The Controller shall prescribe the form of certificates of eligibility to pay all taxes and assessments authorized by this chapter.

Upon or accompanying the certificates shall be a brief statement explaining that, those taxpayers whose property taxes are paid by a lender via an impound, trust, or other similar account shall enter the total amount of each installment on the certificates and mail the certificates to the tax collector and that they will receive a refund check from the county or city in the amount they entered on the certificate, within 30 days following the date on which the installment is paid by the lender or the certificate of eligibility is received by the tax collector, whichever is later.

(e) When a certificate of eligibility has been signed by the claimant, the claimant's spouse, or authorized agent and countersigned by the person authorized to collect property taxes or assessments or the local agency, the certificate shall constitute a written promise on the part of the State of California to pay the sum of money specified therein and the signed and countersigned

certificate shall be deemed a negotiable instrument for the sole purpose of the payment of property taxes owing in the name of the claimant or the claimant's spouse for purposes of all laws of this state.

(f) A certificate of eligibility shall be valid for the duration prescribed thereon by the Controller.

(g) The Controller shall issue certificates of eligibility at the times the Controller determines shall best implement the purpose of this chapter.

(h) The Controller shall prescribe the manner in which a claimant eligible under this chapter, who has been issued a certificate of eligibility which is lost or destroyed prior to being filed with the local agency may obtain a duplicate copy of the certificate as a replacement. Under the conditions which may be prescribed by the Controller, a duplicate copy shall be deemed as having been filed with the local agency as of the date a claimant requests issuance of the duplicate copy.

SEC. 24. Section 20639.9 of the Revenue and Taxation Code is amended to read:

20639.9. Each claimant applying for postponement under this chapter shall file a claim under penalty of perjury with the Controller on a form supplied by the Controller. The claim shall contain all of the following information:

(a) Evidence acceptable to the Controller that the person is a senior citizen claimant.

(b) A statement showing the household income for the period set forth in Section 20503.

(c) A statement describing the residential dwelling in the manner the Controller may prescribe.

(d) The name of the county in which the residential dwelling is located and the address of the residential dwelling.

(e) The county assessor's parcel number applicable to the property for which the claimant is applying for the postponement of property taxes.

(f) A copy of the Certificate of Title issued by the Department of Housing and Community Development or the certificate of ownership issued by the Department of Motor Vehicles.

(g) A copy of the registration card issued by the Department of Housing and Community Development or the Department of Motor Vehicles.

(h) Other information required by the Controller to establish eligibility.

SEC. 25. Section 387 of the Vehicle Code is amended to read:

387. "Manufactured home" is a manufactured home, as defined in Section 18007 of the Health and Safety Code, a commercial coach, as defined in Section 18001.8 of the Health and Safety Code, a mobilehome, as defined in Section 18008 of the Health and Safety Code, factory-built housing, as defined in Section 18971 of the Health and Safety Code, and a trailer coach which is in excess of 8 feet in width or in excess of 40 feet in length. Manufactured home does not

include a recreational vehicle, as defined in Section 18010 of the Health and Safety Code.

SEC. 26. Section 11704.5 of the Vehicle Code is repealed.

SEC. 27. Section 11704.6 of the Vehicle Code is repealed.

SEC. 28. Section 11705 of the Vehicle Code is amended to read:

11705. (a) The department, after notice and hearing, may suspend or revoke the license issued to a dealer, transporter, manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, or distributor branch upon determining that the person to whom the license was issued is not lawfully entitled thereto, or has committed any of the following acts:

(1) Filed an application for the license thereafter issued using a false or fictitious name not registered with the proper authorities, or knowingly made any false statement or knowingly concealed any material fact, in the application for the license.

(2) Has made, or knowingly or negligently permitted, any illegal use of the special plates issued to the licensee.

(3) Has used a false or fictitious name, knowingly made any false statement, or knowingly concealed any material fact, in any application for the registration of a vehicle, or otherwise committed a fraud in the application.

(4) Failed to deliver to a transferee lawfully entitled thereto a properly endorsed certificate of ownership.

(5) Has knowingly purchased, sold, or otherwise acquired or disposed of a stolen motor vehicle.

(6) Failed to provide and maintain a clear physical division between the type of business licensed pursuant to this chapter and any other type of business conducted at the established place of business.

(7) Has willfully violated any of the terms or provisions of Sections 3064 and 3065 or rules and regulations adopted pursuant thereto or adopted pursuant to Section 1651.

(8) Has violated one or more of the terms and provisions of Division 3 (commencing with Section 4000) or a rule or regulation adopted pursuant thereto, or Section 1651, or subdivision (a) of Section 38200.

(9) Has violated one or more of the terms and conditions of Division 4 (commencing with Section 10500) or the rules and regulations adopted pursuant thereto or adopted pursuant to Section 1651.

(10) Has violated one or more of the provisions of Article 1 (commencing with Section 11700) of Chapter 4 of Division 5 or rules and regulations adopted pursuant thereto or adopted pursuant to Section 1651.

(11) Has violated any of the terms or provisions of Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code or rules and regulations adopted pursuant thereto or adopted pursuant to Section 1651.

(12) Has violated any of the terms or provisions of Chapter 2b

(commencing with Section 2981) of Title 14 of Part 4 of Division 3 of the Civil Code or the rules and regulations adopted pursuant thereto under the authority of Section 1651.

(13) Has submitted a check, draft, or money order to the department for any obligation or fee due the state and it is thereafter dishonored or refused payment upon presentation.

(14) Has caused any person to suffer any loss or damage by reason of any fraud or deceit practiced on that person or fraudulent representations made to that person in the course of the licensed activity.

(15) Has failed to meet the terms and conditions of an agreement effected under the provisions of Section 11707.

For purposes of this subdivision, "fraud" includes any act or omission which is included within the definition of either "actual fraud" or "constructive fraud" as defined in Sections 1572 and 1573 of the Civil Code, and the term "deceit" has the same meaning as defined in Section 1710 of the Civil Code. In addition, "fraud" and "deceit" include, but are not limited to, the following: a misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact; a promise or representation not made honestly and in good faith; an intentional failure to disclose a material fact; any act falling within the provisions of Section 484 of the Penal Code.

(b) Any of the causes specified in Section 11703 as a cause for refusal to issue a license to a transporter, manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, or dealer applicant is cause to suspend or revoke a license issued to a transporter, manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, or dealer.

(c) Except as provided in Section 11707, every hearing, as provided for in this section, shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 29. Section 11705.2 of the Vehicle Code is repealed.

SEC. 30. Section 11705.5 of the Vehicle Code is repealed.

SEC. 31. Section 11709 of the Vehicle Code is amended to read:

11709. (a) A dealer's established place of business, and other sites or locations as may be operated and maintained by the dealer in conjunction with his established place of business, shall have posted, in a place conspicuous to the public in each and every location, the license issued by the department to the dealer and to each salesman employed by the dealer and shall have erected or posted thereon signs or devices providing information relating to the dealer's name and the location and address of the dealer's established place of business to enable any person doing business with the dealer to identify him properly. Every such sign erected or posted, on an established place of business, shall have an area of not less than two square feet per side displayed and shall contain lettering of sufficient

size to enable the sign to be read from a distance of at least 50 feet. This section shall not apply to a dealer who is a wholesaler involved for profit only in the sale of vehicles between licensed dealers.

(b) Notwithstanding Section 11704 and this section, a dealer may display vehicles at a fair, exposition, or similar exhibit without securing a branch license, if no actual sales are made at those events and the display does not exceed 30 days.

(c) All vehicles displayed pursuant to subdivision (b) or (c) shall be identified by a sign or device providing information relating to the dealer's name and the location and address of the dealer's established place of business.

(d) This section shall not be applicable to a dealer who deals only in off-highway vehicles subject to identification, as defined in Section 38012.

SEC. 32. Section 11709.5 of the Vehicle Code is repealed.

SEC. 33. Section 11713 of the Vehicle Code is amended to read:

11713. It is unlawful and a violation of this code for the holder of any license issued under this article:

(a) To make or disseminate or cause to be made or disseminated before the public in this state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, any statement which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading; or to so make or disseminate or cause to be so disseminated any such statement as part of a plan or scheme with the intent not to sell any vehicle or service so advertised at the price stated therein, or as so advertised.

(b) To advertise or offer for sale or exchange in any manner, any vehicle not actually for sale at the premises of the dealer or available to the dealer from the manufacturer or distributor of the vehicle at the time of the advertisement or offer.

(c) To fail within 48 hours in writing to withdraw any advertisement of a vehicle that has been sold or withdrawn from sale.

(d) To advertise or represent a vehicle as a new vehicle if the vehicle falls within the purview of Section 665.

(e) To engage in the business for which licensee is licensed without having in force and effect a bond as required by this article.

(f) For any licensed dealer to engage in the business for which the dealer is licensed without at all times maintaining an established place of business as required by this code.

(g) To include, as an added cost to the selling price of a vehicle, an amount for licensing or transfer of title of the vehicle, which amount is not due to the state unless, prior to the sale, that amount has been paid by a dealer to the state in order to avoid penalties that would have accrued because of late payment of the fees. However, a dealer may collect from the second purchaser of a vehicle a prorated fee based upon the number of months remaining in the registration year for that vehicle, if the vehicle had been previously

sold by the dealer and the sale was subsequently rescinded and all the fees that were paid, as required by this code and Chapter 2 (commencing with Section 10751) of Division 2 of the Revenue and Taxation Code, were returned to the first purchaser of the vehicle.

(h) To employ any person as a salesman who has not been licensed pursuant to Article 2 (commencing with Section 11800), and whose license is not displayed on the premises of the dealer as required by Section 11812.

(i) To deliver, following sale, a vehicle for operation on California highways, if the vehicle does not meet all of the equipment requirements of Division 12 (commencing with Section 24000).

(j) To use or permit the use of the special plates assigned to him for any purpose other than as permitted by Section 11715.

(k) To advertise or otherwise represent, or knowingly to allow to be advertised or represented on behalf of or at the place of business of the license holder, that no downpayment is required in connection with the sale of a vehicle when a downpayment is in fact required and the buyer is advised or induced to finance the downpayment by a loan in addition to any other loan financing the remainder of the purchase price of the vehicle.

(*l*) To participate in the sale of a vehicle reported to the Department of Motor Vehicles under Section 5900 or 5901 without making the return and payment of any sales tax due and required by Section 6451 of the Revenue and Taxation Code.

(m) To permit the use of the dealer's license, supplies, or books by any other person for the purpose of permitting that person to engage in the sale of vehicles required to be registered under this code, or to permit the use of the dealer's license, supplies, or books to operate a branch location to be used by any other person, whether or not the licensee has any financial or equitable interest or investment in the vehicles sold by, or the business of, or branch location used by, the other person.

(n) To violate any of the provisions of Article 10 (commencing with Section 28050) of Chapter 5 of Division 12.

SEC. 34. Section 11713.1 of the Vehicle Code is amended to read:

11713.1. It is unlawful and a violation of this code for the holder of any dealer's license issued under this article to do any of the following:

(a) To advertise any specific vehicle for sale without identifying the vehicle by either its vehicle identification number or license number.

(b) To advertise the total price of a vehicle without including all costs to the purchaser at time of sale, except sales tax, vehicle registration fees, certificate of compliance or noncompliance fees not exceeding twenty dollars ($20) pursuant to any statute or a certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code, finance charges, and any dealer documentary preparation charge. The dealer documentary preparation charge shall not exceed twenty dollars ($20).

(c) To exclude from the newspaper display advertisement of a vehicle for sale that there will be added to the advertised total price at the time of sale, charges for sales tax, vehicle registration fees, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute or a certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code, finance charges, and any dealer documentary preparation charge.

For purposes of this subdivision, a newspaper display advertisement is any advertisement in a newspaper which is two or more newspaper columns in width or one newspaper column in width and more than seven inches in length.

(d) To represent the dealer documentary preparation charge as a governmental fee.

(e) To fail to sell a vehicle to any person at the advertised total price, exclusive of sales tax, vehicle registration fees, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute or a certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code, finance charges, mobilehome escrow fees, the amount of any city, county, or city and county imposed fee or tax for a mobilehome, and any dealer documentary preparation charge, which charges shall not exceed twenty dollars ($20) while the vehicle remains unsold, unless the advertisement states the advertised total price is good only for a specified time and the time has elapsed.

SEC. 35. Section 11713.6 of the Vehicle Code is repealed.

SEC. 36. The amendments to Sections 17024 and 18303 of the Health and Safety Code made at the 1983–84 Regular Session of the Legislature by Sections 4 and 21 of this act do not constitute a change in, but are declaratory of, the existing law.

SEC. 37. (a) The sum of five million eight hundred seventy-eight thousand dollars ($5,878,000) is hereby transferred from the Energy and Resources Fund to the Special Account for Capital Outlay in the General Fund.

(b) The sum of five million eight hundred seventy-eight thousand dollars ($5,878,000) is hereby appropriated from the Special Account for Capital Outlay in the General Fund to the Department of General Services for acquisition, preliminary plans, working drawings, and construction of a parking garage in the City of Sacramento.

(c) The garage constructed pursuant to this section shall be constructed in the core area of the Capitol Area Plan, except that the garage shall not be constructed on the blocks bounded by 14th, 15th, N, and O Streets or 15th, 16th, L, and N Streets in Sacramento.

(d) The Department of General Services shall operate and manage the garage constructed pursuant to this section under the authority of Section 14678 of the Government Code, and consistent with policies outlined in the State Administrative Manual, except that 33 percent of the garage capacity shall be available to meet the

parking needs of legislative employees.

SEC. 38. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that owners of mobilehomes, manufacturers and dealers, taxing entities, and regulatory agencies which will be affected by the changes made by this act may be timely apprised of those changes and in order to relieve the critical shortage of parking facilities in the core area of the Capitol Area Plan as soon as possible, it is essential that this act become effective immediately.

SEC. 39. Sections 1 to 36, inclusive, of this act shall become operative January 1, 1985.

CHAPTER 1343

An act to amend Sections 403 and 3519 of the Elections Code, and to amend Section 1752 of the Government Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 403 of the Elections Code is amended to read:

403. All deputies shall return all affidavits of registration and all books or pads in their possession containing stubs and spoiled or unused affidavit blanks on the 59th day before an election, and may apply for new registration materials for use until the close of registration.

All other persons distributing voter registration cards pursuant to subdivision (b) of Section 507 and who receive completed voter registration cards from voters shall return the completed cards to the county clerk or shall deposit such cards in the postal service within three days, excluding Saturdays, Sundays, and state holidays, of receipt from a voter.

SEC. 2. Section 3519 of the Elections Code is amended to read:

3519. Each section shall have attached thereto the declaration of the person soliciting the signatures stating:

(a) The printed name of the circulator.

(b) The residence address of the circulator, giving street and number, or if no street or number exists, adequate designation of residence so that the location may readily be ascertained.

(c) The circulator is a registered voter of the state.

(d) The circulator circulated the section and saw the appended

signatures being written.

(e) That to the best information and belief of the circulator, each signature is the genuine signature of the person whose name it purports to be.

(f) The dates between which all signatures on the section were obtained.

(g) The circulator shall certify to the content of the declaration as to its truth and correctness, under penalty of perjury, with the signature of his or her name at length, including given name, middle name or initial. The circulator shall state the date and the place of execution on the declaration immediately following his or her signature.

No other declaration thereto shall be required.

Petitions so verified shall be prima facie evidence that the signatures thereon are genuine and that the persons signing are qualified voters. Unless and until it be otherwise proven upon official investigation, it shall be presumed that the petition presented contains the signatures of the requisite number of qualified voters.

SEC. 3. Section 1752 of the Government Code is amended to read:

1752. (a) Except as provided in subdivision (b), no person elected or appointed to the governing body of any city, county, or district having an elected governing body, shall be appointed to fill any vacancy on such governing body during the term for which he or she was elected or appointed.

(b) With respect to a general law city, if a vacancy in the elected office of mayor occurs, the council may fill that vacancy by appointing a member of the council to the office of mayor. Any person appointed to fill the vacancy shall hold the office of mayor for the unexpired term of the former mayor. Any vacancy created in the membership of a city council as the result of an appointment of a member to the office of mayor shall be filled in accordance with Section 36512, 36512.1, or 36512.2.

SEC. 4. The amendments to Section 3519 of the Elections Code made by Section 2 of this act shall not affect the validity of any initiative or referendum petition section which was prepared or circulated, or both, prior to the effective date of this act if the particular petition had received a title and summary prepared by the Attorney General prior to the effective date of this act.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the provisions of this act, providing for the orderly conduct of elections and minimizing the difficulties created when a vacancy occurs in the office of mayor of a general law city, may become effective as soon as is possible, it is essential that this act take effect immediately.

CHAPTER 1344

An act to amend Sections 15000, 15026, 15044, 15050, 15071, and 15081 of, and to add Section 15026.5 to, the Health and Safety Code, relating to seismic safety.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 15000 of the Health and Safety Code is amended to read:

15000. This chapter shall be known and may be cited as the Hospital Seismic Safety Act of 1983.

SEC. 2. Section 15026 of the Health and Safety Code is amended to read:

15026. (a) "Hospital building" includes any building not specified in subdivision (b) which is used, or designed to be used, for a health facility of a type required to be licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2.

(b) "Hospital building" does not include any of the following:

(1) Any building in which only outpatient clinic services are provided and which is separated from a building in which hospital services are provided.

(2) Any building used, or designed to be used, for a skilled nursing facility or intermediate care facility if the building is of single-story, wood frame or light steel frame construction.

(3) Any building of single-story, wood frame or light steel frame construction in which only skilled nursing or intermediate care services are provided if the building is separated from a building housing other patients of the health facility receiving higher levels of care.

(4) Any freestanding structures of a chemical dependency recovery hospital exempted under the provisions of subdivision (c) of Section 1275.2.

(5) Any building licensed to be used as an intermediate care facility/developmentally disabled habilitative with six beds or less and any intermediate care facility/developmentally disabled habilitative of 7 to 15 beds which is a single-story, wood frame or light steel frame building.

SEC. 3. Section 15026.5 is added to the Health and Safety Code, to read:

15026.5. "Light steel frame construction" means building construction using bearing walls composed of light gauge steel studs for its primary vertical support systems.

SEC. 4. Section 15044 of the Health and Safety Code is amended to read:

15044. (a) Except as otherwise provided in subdivision (b), plans

submitted pursuant to this chapter for work which affects structural elements shall contain an assessment of the nature of the site and potential for earthquake damage, based upon geologic and engineering investigations and reports by competent personnel of the causes of earthquake damage. One-story Type V wood frame or light steel frame, or light steel and wood frame construction of 4,000 square feet or less, shall be exempt from the provisions of this section, unless the project is within a special study zone established pursuant to Section 2622 of the Public Resources Code.

(b) The requirements of subdivision (a) may be waived by the statewide office when the statewide office determines that these requirements for the proposed hospital project are unnecessary and would not be beneficial to the safety of the public. The statewide office, after consultation with the Building Safety Board, shall adopt regulations defining the criteria upon which the determination of a waiver shall be made.

SEC. 5. Section 15050 of the Health and Safety Code is amended to read:

15050. No contract for the construction or alteration of any hospital building, made or executed on or after January 1, 1983, by the governing board or authority of any hospital or other similar public board, body, or officer otherwise vested with authority to make or execute such a contract, is valid, and no money shall be paid for any work done under such a contract or for any labor or materials furnished in constructing or altering any such building unless all of the following requirements are satisfied:

(a) The plans and specifications comply with this chapter and the requirements prescribed by the statewide office.

(b) The approval thereof in writing has first been had and obtained from the statewide office.

(c) The hospital building is to be accessible to, and usable by, the physically handicapped.

(d) The plans and specifications comply with the fire and panic safety requirements of the State Fire Marshal.

SEC. 6. Section 15071 of the Health and Safety Code is amended to read:

15071. New construction of buildings specified in paragraphs (2) and (3) of subdivision (b) of Section 15026 shall conform to the provisions of the latest edition of the Uniform Building Code of the International Conference of Building Officials, as published in the State Building Standards Code. The statewide office, with the advice of the Building Safety Board, shall adopt and administer regulations for the independent review and inspection of these structures.

The Legislature recognizes the relative safety of single-story, wood frame and light steel frame construction for use in housing patients requiring skilled nursing and intermediate care services and it is, therefore, the intent of the Legislature to provide for reasonable flexibility in seismic safety standards for these structures.

SEC. 7. Section 15081 of the Health and Safety Code is amended

to read:

15081. The board shall consist of 15 members appointed by the Director of the Office of Statewide Health Planning and Development and six ex officio members who are as follows: the Director of the Office of Statewide Health Planning and Development, the State Architect, the State Fire Marshal, the State Geologist, the Chief of the Division of Facilities Development in the Office of Statewide Health Planning and Development, and the chief structural engineer of the Structural Safety Section of the Office of the State Architect in the Department of General Services, or their officially designated representatives. Of the appointive members, two shall be structural engineers, two shall be architects, one shall be an engineering geologist, one shall be a soils engineer, one shall be a seismologist, one shall be a mechanical engineer, one shall be an electrical engineer, one shall be a member of any of the above listed professions, one shall be a hospital administrator, one shall be a local building official, and three shall be members of the general public.

CHAPTER 1345

An act to amend Section 1032 of the Public Utilities Code, relating to carriers.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 1032 of the Public Utilities Code is amended to read:

1032. (a) Every applicant for a certificate shall file in the office of the commission an application therefor in the form required by the commission. The applicant shall forward a copy of the application to each public transit operator operating in any portion of the territory sought to be served by the applicant. The commission may, with or without a hearing, issue the certificate as requested, or refuse to issue it, or issue it for the partial exercise only of the privilege sought, and may attach to the exercise of the rights granted by the certificate terms and conditions that, in its judgment, the public convenience and necessity require.

(b) The commission may, after a hearing, issue a certificate to operate in a territory already served by a certificate holder under this part only when the existing passenger stage corporation or corporations serving the territory will not provide service to the satisfaction of the commission.

(c) Before issuing a certificate, the commission shall consider the effect of the applicant's proposed operations on the services, either provided directly or by contract, furnished by any public transit

operator.

CHAPTER 1346

An act to amend Section 25175 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 25175 of the Health and Safety Cod is amended to read:

25175. (a) The department shall prepare and adopt, and may revise when appropriate, a list of specifed hazardous wastes which the department finds are economically and technologically feasible to recycle, taking into consideration the quantities of, concentrations of, and potential contaminants in, these hazardous wastes, the number and location of recycling facilities, and the proximity of these facilities to hazardous waste producers. The department may list a hazardous waste as recyclable only if the department makes a determination that at least one commercial recycler in California is ready, willing, and able to accept the hazardous waste for recycling at the time when the hazardous waste is listed. Whenever any waste on the list is disposed of by a person, the department may request, and the producer or disposer of that waste shall supply the department with, a formal, complete, and detailed statement justifying why the waste was not recycled. If the request is made of any entity listed in Section 25118 other than an individual, the statement shall be issued by the responsible management of that entity. The department shall keep confidential any trade secrets contained in any such statement.

(b) If, after receipt of the statement described in subdivision (a), the department finds the recycling of a hazardous waste to be economically and technologically feasible at the site of production, as determined by the site operator, or, if the department provides the name of a ready, willing, and able purchaser of the recyclable waste, the disposer of the hazardous waste shall recycle the hazardous waste by either of the above described methods. Failure to comply with an order to recycle by either of these methods shall result in the assessment of fees for disposal pursuant to Section 25174. The director may establish fees for the disposal of hazardous wastes determined to be recyclable in amounts which may be up to two times the base fee paid under the annual fee schedule established by the director.

CHAPTER 1347

An act to amend Section 650.1 of the Business and Professions Code, relating to pharmacies.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 650.1 of the Business and Professions Code is amended to read:

650.1. (a) Any amount payable to any hospital, as defined in Section 4047, or any person or corporation prohibited from pharmacy permit ownership by subdivision (a) of Section 4080.5 under any rental, lease or service arrangement with respect to the furnishing or supply of pharmaceutical services and products, which is determined as a percentage, fraction, or portion of (1) the charges to patients or of (2) any measure of hospital or pharmacy revenue or cost, for pharmaceuticals and pharmaceutical services is prohibited.

(b) Any lease or rental arrangement existing on the effective date of this section shall be in full compliance with subdivision (a) by January 1, 1986.

(c) Any lease or rental agreement entered into prior to January 1, 1980, that extends beyond the effective date of this section shall be construed to be in compliance with this section until its expiration or the expiration of any option which is contained in any such lease or rental agreement provided that the lease or rental agreement contains provisions which limit pharmacy charges to the amounts not in excess of the prevailing charges in similar hospitals in the general geographic area.

(d) The California State Board of Pharmacy, the board of Medical Quality Assurance, and the State Department of Health Services shall enforce this section and may require information from any person as is necessary for the enforcement of this section. It shall be the duty of the licensees of the respective regulatory agencies to produce the requisite evidence to show compliance with this section. Violations of this section shall be deemed to be the mutual responsibility of both lessee and lessor, and shall be grounds for disciplinary action or other sanctions against both.

CHAPTER 1348

An act to amend Section 1376 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 1376 of the Unemployment Insurance Code is amended to read:

1376. The Director of Employment Development shall determine the amount of the overpayment and any assessment authorized under Section 1375.1 and shall notify the liable person of the basis of the overpayment determination. In the absence of fraud, misrepresentation, or willful nondisclosure, notice of the overpayment determination shall be mailed or personally served within the latest of the following periods:

(a) Not later than one year after the close of the benefit year in which the overpayment was made.

(b) Not later than six months after the date a backpay award was made.

CHAPTER 1349

An act to add Sections 1797.6, 1797.85, and 1797.224 to the Health and Safety Code, relating to emergency medical services.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 1797.6 is added to the Health and Safety Code, to read:

1797.6. (a) It is the policy of the State of California to ensure the provision of effective and efficient emergency medical care. The Legislature finds and declares that achieving this policy has been hindered by the confusion and concern in the 58 counties resulting from the United States Supreme Court's holding in Community Communications Company, Inc. v. City of Boulder, Colorado, 455 U.S. 40, 70 L. Ed. 2d 810, 102 S. Ct. 835, regarding local governmental liability under federal antitrust laws.

(b) It is the intent of the Legislature in enacting this section and Sections 1797.85 and 1797.224 to prescribe and exercise the degree of state direction and supervision over emergency medical services as will provide for state action immunity under federal antitrust laws for activities undertaken by local governmental entities in carrying out their prescribed functions under this division.

SEC. 2. Section 1797.85 is added to the Health and Safety Code, to read:

1797.85. "Exclusive operating area" means an EMS area or subarea defined by the emergency medical services plan for which

a local EMS agency, upon the recommendation of a county, restricts operations to one or more emergency ambulance services or providers of limited advanced life support or advanced life support.

SEC. 3. Section 1797.224 is added to the Health and Safety Code, to read:

1797.224. A local EMS agency may create one or more exclusive operating areas in the development of a local plan, if a competitive process is utilized to select the provider or providers of the services pursuant to the plan. No competitive process is required if the local EMS agency develops or implements a local plan that continues the use of existing providers operating within a local EMS area in the manner and scope in which the services have been provided without interruption since January 1, 1981. A local EMS agency which elects to create one or more exclusive operating areas in the development of a local plan shall develop and submit for approval to the authority, as part of the local EMS plan, its competitive process for selecting providers and determining the scope of their operations. This plan shall include provisions for a competitive process held at periodic intervals. Nothing in this section supersedes Section 1797.201.

SEC. 4. Neither the fact of the enactment of this act, nor any of the provisions of Sections 1797.6, 1797.85, or Section 1797.224 of the Health and Safety Code, as added by this act, shall be considered, used, or applied in any litigation which is pending on January 1, 1985.

CHAPTER 1350

An act to amend Section 26733 of the Government Code, relating to courts.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 26733 of the Government Code is amended to read:

26733. The fee for serving a copy of a writ of possession of real property on an occupant or for posting a copy and serving a copy on the judgment debtor is fourteen dollars ($14), and the fee for putting a person in possession of the premises and removing the occupant is fourteen dollars ($14).

CHAPTER 1351

An act to amend Section 637.1 of the Unemployment Insurance Code, and to amend Section 2 of Chapter 887 of the Statutes of 1983, relating to unemployment insurance.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 637.1 of the Unemployment Insurance Code is amended to read:

637.1. (a) In a private corporation organized for profit, any individual who is included within the meaning of "employee" pursuant to subdivision (a) of Section 621 and who is (a) the sole stockholder, or (b) the only stockholder other than his or her spouse, may file a statement electing to be excluded from unemployment insurance or disability insurance coverage for benefits and contributions under this division. The election shall be effective on the first day of the calendar quarter in which the statement is filed. The election shall be effective during the remainder, if any, of the calendar year in which the statement is filed and not less than the two succeeding complete calendar years, and in all subsequent calendar quarters while the statement is in effect.

(b) An individual related by marriage or blood to all the other stockholders and who owns at least 25 percent of the stock in a corporation specified in subdivision (a) may file a statement like that specified in subdivision (a) with the same effect as that statement.

An election under this subdivision shall not be effective unless and until an exclusion from coverage for the services of these persons is permitted under the Federal Unemployment Tax Act.

This section shall remain in effect only until January 1, 1989, and on that date is repealed.

SEC. 2. Section 2 of Chapter 887 of the Statutes of 1983 is amended to read:

Sec. 2. The Employment Development Department shall prepare and submit to the Legislature no later than January 1, 1987, a report containing an analysis of the sole stockholders by categories, who claimed the exemption provided by Section 637.1 of the Unemployment Insurance Code during the previous three years, and an analysis of the fiscal impact of the exemption on the Unemployment Fund and the Disability Fund. The department shall submit the cost of the report as a budget item during the 1985–86 Regular Session of the Legislature.

CHAPTER 1352

An act to add Chapter 5.2 (commencing with Section 13200) to Part 3 of Division 9 of the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Chapter 5.2 (commencing with Section 13200) is added to Part 3 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 5.2. REFUGEE ASSISTANCE PROGRAM

Article 1. Findings and Intent

13200. The Legislature finds and declares that the vast majority of refugees arriving in this state do wish to become employed and live prosperous and dignified lives. The Legislature further finds and declares, however, that due to a combination of forces, including the current structure of the public social services system in this state and in the United States, many of these refugees are routed into the welfare system, and that many refugees are frequently not referred to employment-related social services programs which are designed to meet the unique employment needs of refugees and to assist them to become productive members of society.

13201. It is the intent of the Legislature, therefore, to establish a Refugee Cash Assistance Demonstration Project which, to the extent permitted by federal law, will enable these individuals to avoid the pitfalls of the current welfare system, and to obtain the training necessary to obtain unsubsidized employment.

All rights and protections applicable to applicants for, or recipients of aid under the Refugee Cash Assistance Program shall be applicable to refugees aided under the demonstration project established pursuant to this chapter.

Article 2. Eligibility

13210. The department shall administer through each county welfare department a statewide Refugee Cash Assistance Demonstration Project in the existing Refugee Cash Assistance component of the Refugee Resettlement Program to also include any refugee who is or becomes otherwise eligible to receive aid on or after the implementation date of this chapter and who would otherwise be eligible for benefits under Chapter 2 (commencing

with Section 11200). No refugee shall remain eligible for this project after residing in this country for a period of three years.

13211. A refugee covered by this chapter shall not be eligible for the provision of aid under Chapter 2 (commencing with Section 11200). A refugee aided under this chapter shall be eligible for medical benefits under the Refugee Medical Assistance component of the Refugee Resettlement Program, to the extent provided under federal law.

13212. Except to the extent provided for in Article 3 (commencing with Section 13220), eligibility for benefits under this chapter shall be determined utilizing Aid to Families with Dependent Children program regulations, unless specifically superseded by the existing Refugee Cash Assistance Program regulations adopted by the department.

Article 3. Training and Employment

13220. Persons qualified for eligibility under this chapter, shall receive, and shall be required to accept any appropriate offer of employment, as set forth in regulations for the department's Refugee Cash Assistance Program adopted by the department, and participate in training in areas such as:

(a) Cultural orientation.

(b) Training in English as a second language.

(c) Employment skills training.

13221. Except as provided in this section, failure of the individual to accept an appropriate offer of employment or participate in training pursuant to Section 13220 without good cause, shall result in sanctions against the individual in the form of ineligibility for cash payments for three payment months for the first occurrence and six payment months for the second and subsequent occurrences. If the individual is the unemployed parent, aid under this chapter shall be discontinued to all members of the cash assistance unit.

13222. To the extent permitted by federal law, any refugee is exempt from participation under this article who meets the exemption requirements set forth in the regulations adopted by the department for the Refugee Cash Assistance Program.

13223. For the purpose of this chapter, "failure to accept an appropriate offer of employment," "failure to participate in training," "good cause," and related language have the same meaning as used for the purposes of the Refugee Cash Assistance Program and Sections 5007 and 5007.5 of the Unemployment Insurance Code, except that subdivision (g) of Section 5007 and subdivision (c) of Section 5007.5 shall not apply. Conciliation proceedings and sanctions shall be applied in the same manner as they are applied to recipients of aid under the Refugee Cash Assistance Program.

Article 4. Fair Hearing Rights

13230. A recipient of benefits under this chapter has the right to receive a fair hearing, to be conducted by the department, on any adverse decision which would give the recipient a right to a hearing if he or she were a recipient of aid under Chapter 2 (commencing with Section 11200).

Article 5. Evaluation

13240. One year after the commencement of the implementation of this section, and annually thereafter, the department shall submit a report to the Legislature evaluating the effectiveness of the program provided for under this chapter. These reports shall be due to the Legislature 60 days after the periodic reporting period's final date.

Article 6. Miscellaneous Provisions

13250. This chapter shall be operative only if adequate federal funding is made available and necessary waivers are obtained from the federal government necessary to implement this chapter.

The department shall implement this demonstration project on July 1, 1984, or as soon thereafter as is possible. This demonstration project shall be in operation for a period of three years.

SEC. 2. The State Director of Social Services shall adopt regulations implementing the provisions of this act as emergency regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. These regulations shall become effective immediately upon filing with the Secretary of State.

SEC. 3. The Department of Finance may authorize the transfer of funds, pursuant to Chapter 258 of the Statutes of 1984, from Item 5180-101-866 (a) of Chapter 258 of the Statutes of 1984 to Item 5180-131-866 of Chapter 258 of the Statutes of 1984, as requested by the State Department of Social Services in order to implement the Refugee Cash Assistance Demonstration Project, provided for in this act.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that this program can provide quality needed services to refugees prior to January 1, 1985, it is necessary that this act go into immediate effect.

CHAPTER 1353

An act to amend Section 1806 of the Welfare and Institutions Code, relating to the county justice system subvention program, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 1806 of the Welfare and Institutions Code is amended to read:

1806. (a) From any state moneys made available to it for the program, commencing with fiscal year 1983–84, the Department of the Youth Authority shall provide funds to counties for the following purposes:

(1) To develop and maintain local programs for minors and adults who are eligible for commitment to the Department of Corrections or to the Department of the Youth Authority or who are considered to be at a high risk of becoming eligible for commitment.

(2) To maintain local programs for minors who have been found to be persons described by Section 602 and who are committed to a juvenile hall or to a juvenile home, ranch, camp, or forestry camp established pursuant to Sections 850 and 880.

(3) To develop and maintain programs to prevent crime and delinquency by persons who are not wards of the juvenile court or under court ordered probation supervision or serving a sentence as a result of a conviction in a court of criminal jurisdiction.

(4) To maintain programs or services required or authorized by Chapter 1071 of the Statutes of 1976.

(5) To provide funding for necessary county administrative expenses for the county justice system block grant program, including those attributable to the advisory group described in Section 1807.

(b) In utilizing funds for the purposes set forth in subdivision (a), counties shall give primary consideration to programs which are local alternatives to the commitment of minors and adults to the Department of Corrections or the Department of the Youth Authority.

(c) Funds granted to counties under this article shall not be used for capital construction; for travel outside of the State of California; for law enforcement investigation or apprehension purposes; for the expense of prosecution or defense, except to the extent required by Chapter 1071 of the Statutes of 1976; or for the costs of confinement or detention in a jail, juvenile hall, or other secure lock-up prior to sentencing or disposition by the court.

(d) Any funds obtained by any county under former Section 1806 from appropriations for the fiscal years 1978–79 to 1982–83, inclusive,

used to supplant local funds that would have otherwise been expended in support of local criminal justice activities need not be repaid to the state based upon audit exceptions noted by the Controller.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The law regarding supplantation of local funds must be clarified as soon as possible to avoid costly litigation; therefore, it is necessary that this act take immediate effect.

CHAPTER 1354

An act to add Section 2460.7 to the Streets and Highways Code, relating to grade separation projects.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

2460.7. A project that is on the priority list may be constructed by a local agency prior to the time that it reaches a high enough priority for funding under this chapter. The project shall retain its eligibility for listing on subsequent priority lists established by the Public Utilities Commission pursuant to Section 2452 by applying the traffic, accident, and other conditions existing at the project location at the time immediately preceding the start of construction.

If the project subsequently reaches a high enough priority for funding under this chapter, funds shall be allocated and paid to the local agency in the same manner, and under the same terms and conditions, as any other project funded under this chapter on the basis of the cost of construction of the project. To be eligible for subsequent funding under this section, both of the following requirements shall be met:

(a) The work on the project shall be performed under terms and conditions established by the department.

(b) The project has received the prior approval of the California Transportation Commission.

CHAPTER 1355

An act to amend Section 6101 of, and to repeal Section 6079 of, the Business and Professions Code, and to amend Section 74708 of the Government Code, relating to courts.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 6079 of the Business and Professions Code is repealed.

SEC. 2. Section 6101 of the Business and Professions Code is amended to read:

6101. (a) Conviction of a felony or misdemeanor, involving moral turpitude, constitutes a cause for disbarment or suspension.

In any proceeding, whether under this article or otherwise, to disbar or suspend an attorney on account of that conviction, the record of conviction shall be conclusive evidence of guilt of the crime of which he or she has been convicted.

(b) The district attorney, city attorney, or other prosecuting agency shall notify the Office of the State Bar of the State Bar of California of the pendency of an action against an attorney charging a felony or misdemeanor immediately upon obtaining information that the defendant is an attorney. The notice shall identify the attorney and describe the crimes charged and the alleged facts. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is an attorney, and the clerk shall record prominently in the file that the defendant is an attorney.

(c) The clerk of the court in which an attorney is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the Office of the State Bar. Within five days of receipt, the Office of the State Bar shall transmit the record of any conviction which involves or may involve moral turpitude to the Supreme Court with such other records and information as may be appropriate to establish the Supreme Court's jurisdiction. The State Bar of California may procure and transmit the record of conviction to the Supreme Court when the clerk has not done so or when the conviction was had in a court other than a court of this state.

(d) The proceedings to disbar or suspend an attorney on account of such a conviction shall be undertaken by the Supreme Court pursuant to the procedure provided in this section and Section 6102, upon the receipt of the certified copy of the record of conviction.

(e) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of those sections.

SEC. 3. Section 74708 of the Government Code is amended to

read:

74708. In the municipal court in the district which coincides with all the territory in the County of Sonoma, there shall be the following personnel:

(a) There shall be six judges who may together appoint:

(1) One court commissioner.

(2) One court administrative officer-jury commissioner.

(3) One clerk.

(4) One court reporter.

(5) Two municipal court secretaries.

(b) The court administrative officer-jury commissioner may appoint:

(1) One administrative assistant.

(2) One municipal court services supervisor.

(3) One accountant II/I.

(4) Thirteen municipal court clerks IV.

(5) One deputy jury commissioner.

(6) One account clerk III.

(7) Seventeen municipal court clerks III.

(8) Two account clerks II/I.

(9) Twenty-one municipal court clerks II/I.

(10) One telephone operator.

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 5. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections for any costs mandated by Sections 1 and 2 of this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 6. In addition, no appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because Section 3 of this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Furthermore, this act does not create any present or future obligation to reimburse the agency or district for any costs incurred because of Section 3 of this act.

SEC. 7. Section 3 of this act shall only become operative if Senate Bill No. 365 and Assembly Bill No. 3625 of the 1983–84 Regular Session are both enacted, both amend Section 74708 of the Government Code, and both are chaptered before this bill.

CHAPTER 1356

An act to amend Sections 6730, 6735, and 6763.5 of, and to add Section 6730.2 to, the Business and Professions Code, relating to engineers.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 6730 of the Business and Professions Code is amended to read:

6730. In order to safeguard life, health, property and public welfare, any person, either in a public or private capacity, except as in this chapter specifically excepted, who practices, or offers to practice, civil engineering, electrical engineering or mechanical engineering, in any of its branches in this state, including any person employed by the State of California, or any city, county, or city and county, who practices engineering, shall submit evidence that he is qualified to practice, and shall be registered accordingly as a civil engineer, electrical engineer or mechanical engineer by the board.

SEC. 1.5. Section 6730.2 is added to the Business and Professions Code, to read:

6730.2. It is the intent of the Legislature that the registration requirements which are imposed upon private sector professional engineers and engineering partnerships, firms, or corporation shall be imposed upon the state and any city, county, or city and county which shall adhere to those requirements. Therefore, for the purposes of Section 6730 and this chapter, at least one registered engineer shall be designated the person in responsible charge of professional engineering work for each branch of professional engineering practiced in any department or agency of the state, city, county, or city and county.

Any department or agency of the state or any city, county, or city and county which has an unregistered person in responsible charge of engineering work on the effective date of this section shall be exempt from this requirement until such time as the person currently in responsible charge is replaced.

SEC. 2. Section 6735 of the Business and Professions Code is amended to read:

6735. All civil engineering plans, specifications, reports or documents shall be prepared by a registered civil engineer or by a subordinate under his or her direction, and shall be signed by him or her to indicate his or her responsibility for them. In addition to his or her signature, he or she shall show his or her registration number or the stamp of his or her seal. The registered civil engineer shall use together with his or her signature or seal, the title "civil engineer" or, if he or she has the authority, the title "structural engineer" or,

if he or she has the authority, the title "soil engineer."

SEC. 3. Section 6763.5 of the Business and Professions Code is amended to read:

6763.5. If an applicant for registration as a professional engineer or certification as an engineer-in-training, or for authorization to use the title "structural engineer" or "soil engineer," is found by the board to lack the qualifications required for admission to the examination for such registration, certification, or authorization, the board may, in accordance with the provisions of Section 158 of this code, refund to him or her one-half of the amount of his or her application fee.

SEC. 4. The amendment of Section 6735 of the Business and Professions Code made by Section 2 of this act does not constitute a change in, but is declaratory of, the existing law.

CHAPTER 1357

An act to amend Section 21152 of the Public Resources Code, relating to environmental quality.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 21152 of the Public Resources Code is amended to read:

21152. (a) Whenever a local agency approves or determines to carry out a project which is subject to this division, it shall file notice of the approval or the determination within five working days of the action with the county clerk of the county, or counties, in which the project will be located. The notice shall indicate the determination of the local agency whether the project will, or will not, have a significant effect on the environment and shall indicate whether an environmental impact report has been prepared pursuant to this division.

(b) Whenever a local agency determines that a project is not subject to this division pursuant to subdivision (b) of Section 21080 or pursuant to Section 21085 or 21172, and it approves or determines to carry out the project, it, or the person specified in subdivision (b) or (c) of Section 21065, may file notice of the determination with the county clerk of the county, or counties, in which the project will be located. Any notice filed pursuant to this subdivision by a person specified in subdivision (b) or (c) of Section 21065 shall have a certificate of determination attached to it issued by the local agency responsible for making the determination that a project is not subject to this division pursuant to subdivision (b) of Section 21080 or pursuant to Section 21085 or 21172. The certificate of determination

may be in the form of a certified copy of an existing document or record of the local agency.

(c) All notices filed pursuant to this section shall be available for public inspection, and a list of those notices shall be posted on a weekly basis in the office of the county clerk. Each list shall remain posted for a period of 30 days.

SEC. 2. Section 21152 of the Public Resources Code is amended to read:

21152. (a) Whenever a local agency approves or determines to carry out a project which is subject to this division, it shall file notice of the approval or the determination becomes final with the county clerk of the county, or counties, in which the project will be located. The notice shall indicate the determination of the local agency whether the project will, or will not, have a significant effect on the environment and shall indicate whether an environmental impact report has been prepared pursuant to this division.

(b) Whenever a local agency determines that a project is not subject to this division pursuant to subdivision (b) of Section 21080 or pursuant to Section 21085 or 21172, and it approves or determines to carry out the project, it, or the person specified in subdivision (b) or (c) of Section 21065, may file notice of the determination with the county clerk of the county, or counties, in which the project will be located. Any notice filed pursuant to this subdivision by a person specified in subdivision (b) or (c) of Section 21065 shall have a certificate of determination attached to it issued by the local agency responsible for making the determination that a project is not subject to this division pursuant to subdivision (b) of Section 21080 or pursuant to Section 21085 or 21172. The certificate of determination may be in the form of a certified copy of an existing document or record of the local agency.

(c) All notices filed pursuant to this section shall be available for public inspection, and shall be posted on a weekly basis in the office of the county clerk. Each notice shall remain posted for a period of 30 days, and thereafter , the clerk shall return to the local agency the notice with a notation of the period it was posted. The local agency shall retain the notice for not less than nine months.

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

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 5. Section 2 of this bill incorporates amendments to Section

21152 of the Public Resources Code proposed by both this bill and AB 2876. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 21152 of the Public Resources Code, and (3) this bill is enacted after AB 2876, in which case Section 1 of this bill shall not become operative.

CHAPTER 1358

An act to amend Section 2107.7 of the Streets and Highways Code, relating to highways, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 2107.7 of the Streets and Highways Code is amended to read:

2107.7. (a) For each fiscal year, the Department of Parks and Recreation shall include in its budget submitted by the Governor an amount not to exceed one million five hundred thousand dollars ($1,500,000) to be appropriated by the Legislature from the Highway Users Tax Account in the Transportation Tax Fund to the State Parks and Recreation Fund.

(b) These funds shall be appropriated to the Department of Parks and Recreation for the maintenance and repair of highways in units of the state park system.

(c) In addition, the money may be used by the Department of Parks and Recreation for construction and improvement on the highways when appropriated for such purposes by the Legislature.

(d) The highway construction and improvement shall be designed in accordance with the standards established by the Department of Parks and Recreation for state park roads, and may be carried out through service agreements with the Department of Transportation.

(e) Any increase in the amount of this appropriation shall be considered in the course of the annual budget process, which shall include review and comment by the Department of Transportation.

(f) For purposes of this section, highways in units of the state park system shall include those routes of motor vehicle travel generally open to public travel and service roads, parking areas, and roads within campgrounds. Nothing in this section shall constitute the highway as a state highway or add it to the state highway system.

SEC. 2. In augmentation of Item 3790-011-062 of the Budget Act of 1984, the sum of one million five hundred thousand dollars ($1,500,000) shall be transferred on the effective date of this act from

the Highway Users Tax Account in the Transportation Tax Fund to the State Parks and Recreation Fund and is hereby appropriated from the State Parks and Recreation Fund to the Department of Parks and Recreation for expenditure in the 1984–85 fiscal year for the maintenance and repair of highways in units of the state park system.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for needed funds to be available in the 1984–85 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 1359

An act to add Section 23184.5 to the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. It is the intent of the Legislature in enacting this act to find and declare that financial corporations are not subject to duplicative taxation under existing law notwithstanding differing interpretations of Chapter 1150 of the Statutes of 1979 by certain local jurisdictions, the Franchise Tax Board, and affected financial corporations.

The Legislature finds and declares all of the following:

(a) That banks are exempt from paying certain taxes and fees including business license taxes imposed by charter cities.

(b) Prior to the effective date of Chapter 1150 of the Statutes of 1979, financial corporations were required to pay, among other things, business license taxes imposed by charter cities, but were allowed to offset those taxes, with certain limitations, against the tax imposed upon those financial corporations by the Bank and Corporation Tax Law.

(c) That the intent of the Legislature in enacting Chapter 1150 of the Statutes of 1979, in part here relevant, was to bring parity to banks and financial corporations.

(d) That due to the limitations imposed upon that offset (and for other reasons), not all taxes paid by financial corporations to charter cities were recouped through the offset mechanism.

(e) That accordingly, the offset was ineffective to bring parity to banks and financial corporations.

The Legislature further finds and declares that it enacted Chapter

1150 of the Statutes of 1979 to, among other things, minimize the difference between banks and financial corporations by providing in Section 23182 of the Revenue and Taxation Code that the tax imposed by Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code was in lieu of, among other things, business license taxes such as those imposed by charter cities. Thus, the Legislature finds and declares that its intent in amending Section 23182 of the Revenue and Taxation Code by Chapter 1150 of the Statutes of 1979 was to prohibit, among other things, charter cities from imposing business license taxes on financial corporations. Litigation is pending regarding the application of Section 23182 of the Revenue and Taxation Code with respect to business license taxes imposed by charter cities on financial corporations. In the event a final court decision concludes that charter cities can impose those taxes, the Legislature hereby declares that the offset provided by Section 23184 of the Revenue and Taxation Code is properly allowable for all years after the effective date of Chapter 1150 of the Statutes of 1979 as if that chapter had never been enacted.

The Legislature finds that it would be manifestly unfair and would cause severe economic hardship, inequities and injustices, if financial corporations could not offset any business license taxes imposed by and paid to charter cities with respect to any year after the effective date of Chapter 1150 of the Statutes of 1979. Failure to allow those offsets would seriously and adversely affect California financial corporations. Public policy is served by confirming that the offset is properly allowable in the event that charter cities are permitted to impose business license taxes on financial corporations after the effective date of Chapter 1150 of the Statutes of 1979.

Nothing in this act is intended to affect any pending litigation relating to the power of charter cities to impose business license taxes on financial corporations, except insofar as it reaffirms the intent of the Legislature in enacting Chapter 1150 of the Statutes of 1979 to prohibit, among other things, charter cities from imposing business license taxes on financial corporations.

SEC. 2. Section 23184.5 is added to the Revenue and Taxation Code, to read:

23184.5. Litigation is pending regarding the application of Section 23182 with respect to business license taxes imposed by charter cities on financial corporations. If the final court determination is that charter cities may impose those taxes, then to the extent those taxes were imposed and paid, an offset is properly allowable pursuant to Section 23184 as if Chapter 1150 of the Statutes of 1979 had never been enacted. Pending that determination, the Franchise Tax Board shall issue proposed deficiency assessments disallowing those offsets claimed on returns for income years beginning in 1983 and thereafter. However, final action on the proposed deficiencies shall be deferred pending the final court determination. If the final court determination upholds the imposition of those taxes, then the proposed deficiencies shall be

withdrawn. If the final court determination does not uphold the imposition of those taxes, the proposed deficiencies shall become final upon written notice thereof by the Franchise Tax Board and the deficiency assessments shall be due and payable within 30 days of the date of that notice by the Franchise Tax Board. If full payment is made within that 30-day period, interest shall not be imposed for the period after the date of the notice. Interest on those deficiency assessments shall accrue from the due date of the return without regard to any extensions. The period for making the proposed deficiency assessments provided by this section shall either be the period specified in Section 25663 or one year after the final court determination, whichever period is later.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

It is necessary that this act take effect at the earliest possible date in order to make certain that Chapter 1150 of the Statutes of 1979 is applied in the manner originally intended by the Legislature. Chapter 1150 of the Statutes of 1979 reaffirmed "the Legislature's longstanding purpose of insuring competitive parity between banks and financial corporations by subjecting both types of institutions to an equivalent tax burden" (Sec. 20, Ch. 1150, Stats. 1979). Since enactment of that measure, some differences of interpretation have resulted in litigation relating to the authority of chartered cities to impose business license taxes on financial corporations. Pending the outcome of that litigation, and in order to make clear that financial corporations are not subject to duplicative taxation in some instances, it is essential that this act take effect immediately.

CHAPTER 1360

An act to amend Sections 21701, 21702, and 21705 of, and to add Section 21702.5 to, the Business and Professions Code, relating to self-service storage facilities.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 21701 of the Business and Professions Code is amended to read:

21701. For the purposes of this chapter, the following terms shall have the following meanings:

(a) "Self-service storage facility" means any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to the space for

the purpose of storing and removing personal property, but does not include a garage or other storage area in a private residence. No occupant shall use a self-service storage facility for residential purposes. A self-service storage facility is not a warehouse, nor a public utility, as defined in Section 216 of the Public Utilities Code. If an owner issues any warehouse receipt, bill of lading, or other document of title for the personal property stored, the owner and the occupant are subject to the provisions of Division 7 (commencing with Section 7101) of the Commercial Code, and the provisions of this chapter do not apply.

(b) "Owner" means the owner, operator, lessor, or sublessor of a self-service storage facility, his or her agent, or any other person authorized by him or her to manage the facility, or to receive rent from an occupant under a rental agreement, and no real estate license is required.

(c) "Occupant" means a person, or his or her sublessee, successor, or assign, who is entitled to the use of the storage space at a self-service storage facility under a rental agreement, to the exclusion of others.

(d) "Rental agreement" means any written agreement or lease which establishes or modifies the terms, conditions, rules, or any other provision concerning the use and occupancy of a self-service storage facility.

(e) "Personal property" means movable property not affixed to land, and includes, but is not limited to, goods, merchandise, furniture, and household items.

(f) "Last known address" means that address provided by the occupant in the latest rental agreement, or the address provided by the occupant in a subsequent written notice of a change of address.

SEC. 2. Section 21702 of the Business and Professions Code is amended to read:

21702. The owner of a self-service storage facility and his or her heirs, executors, administrators, successors, and assigns have a lien upon all personal property located at a self-service storage facility for rent, labor, or other charges, present or future, incurred pursuant to the rental agreement, and for expenses necessary for the preservation, sale, or disposition of personal property subject to the provisions of this chapter. The lien may be enforced consistent with the provisions in this chapter.

SEC. 3. Section 21702.5 is added to the Business and Professions Code, to read:

21702.5. (a) Any lien on a vehicle or vessel subject to registration or identification under the Vehicle Code which has attached and is set forth in the documents of title to the vehicle or vessel shall have priority over any lien created pursuant to this chapter.

(b) Any lien created pursuant to this chapter on a vehicle or vessel subject to registration or identification under the Vehicle Code shall be enforced in accordance with the provisions of Section 3071 of the Civil Code, in the case of a vehicle, or Section 503 of the Harbors and

Navigation Code, in the case of a vessel, and not as prescribed in Sections 21705 to 21711, inclusive, except that actions may be conducted as provided in Section 21710.

(c) Any lien created pursuant to this chapter on a vehicle or vessel subject to registration or identification under the Vehicle Code shall not include any charges for rent, labor, or other services incurred pursuant to the rental agreement, accruing more than 60 days after the date the lien imposed pursuant to this chapter attaches, as set forth in Section 21705, and before application is made for authorization to conduct the lien sale pursuant to the requirements of Section 3071 of the Civil Code or Section 503 of the Harbors and Navigation Code.

(d) Any proceeds from a lien sale shall be disposed of pursuant to Section 3073 of the Civil Code, in the case of a vehicle, or Section 507.5 of the Harbors and Navigation Code, in the case of a vessel.

SEC. 4. Section 21705 of the Business and Professions Code is amended to read:

21705. If a notice has been sent, as required by Section 21703, and the total sum due has not been paid as of the date specified in the preliminary lien notice, the lien imposed by this chapter attaches as of that date, and the owner may deny an occupant access to the space, enter the space, and remove any property found therein to a place of safe keeping. The owner shall then send to the occupant, addressed to the occupant's last known address, and to the alternative address specified in subdivision (b) of Section 21712, by certified mail, postage prepaid, all of the following:

(a) A notice of lien sale which shall state all of the following:

(1) That the occupant's right to use the storage space has terminated and that the occupant no longer has access to the stored property.

(2) That the stored property is subject to a lien, and the amount of the lien.

(3) That the property will be sold to satisfy the lien after a specified date which is not less than 14 days from the date of mailing the notice unless the amount of the lien is paid or the occupant executes and returns by certified mail a declaration under penalty of perjury in opposition to the lien sale in the form set forth in subdivision (b).

(4) That any excess proceeds of the sale over the lien amount and costs of sale will be retained by the owner and may be reclaimed by the occupant, or claimed by another person, at any time for a period of one year from the sale and that thereafter the proceeds will escheat to the county.

(b) A blank declaration in opposition to the lien sale which shall be in substantially the following form:

DECLARATION IN OPPOSITION TO LIEN SALE

I, _____ ,
(occupant's name)
have received the notice of lien sale of the property stored at
_____ .
(location and space #)
I oppose the lien sale of the property. My address is:
_____
(address)
_____
(city) (state) (zip)
I understand that the lienholder may file an action in court against me, and if a judgment is given in his or her favor, I may be liable for the court costs. I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was signed by me on _____ at _____.
(date) (place)
_____
(signature of occupant)

CHAPTER 1361

An act to amend Section 11580.2 of the Insurance Code, relating to insurance.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 11580.2 of the Insurance Code is amended to read:

11580.2. (a) (1) No policy of bodily injury liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle, except for policies which provide insurance in the Republic of Mexico issued or delivered in this state by nonadmitted Mexican insurers, shall be issued or delivered in this state to the owner or operator of a motor vehicle, or shall be issued or delivered by any insurer licensed in this state upon any motor vehicle then principally used or principally garaged in this state, unless the policy contains, or has added to it by endorsement, a provision with coverage limits at least equal to the limits specified in subdivision (m) and in no case less than the financial responsibility requirements specified in Section 16056 of the Vehicle Code insuring the insured, the insured's heirs or legal representative for all sums within such limits which he, she, or they, as the case may be, shall be

legally entitled to recover as damages for bodily injury or wrongful death from the owner or operator of an uninsured motor vehicle. The insurer and any named insured, prior to or subsequent to the issuance or renewal of a policy, may, by agreement in writing, in the form specified in paragraph (2), delete the provision covering damage caused by an uninsured motor vehicle (1) completely, or (2) delete such coverage when a motor vehicle is operated by a natural person or persons designated by name, or agree to provide such coverage in an amount less than that required by subdivision (m) but not less than the financial responsibility requirements specified in Section 16056 of the Vehicle Code. Any such agreements by any named insured or agreement for the amount of coverage shall be binding upon every insured to whom the policy or endorsement provisions apply while the policy is in force, and shall continue to be so binding with respect to any continuation or renewal of the policy or with respect to any other policy which extends, changes, supersedes, or replaces the policy issued to the named insured by the same insurer, or with respect to reinstatement of the policy within 30 days of any lapse thereof. A policy shall be excluded from the application of this section if the only coverage with respect to the use of any motor vehicle is limited to the contingent liability arising out of the use of nonowned motor vehicles or if the automobile liability coverage is provided only on an excess or umbrella basis. Nothing in this section shall be construed to require that uninsured motorist coverage shall be offered or provided in any homeowner policy, personal and residents' liability policy, comprehensive personal liability policy, manufacturers' and contractors' policy, premises liability policy, special multiperil policy, or any other policy or endorsement where automobile liability coverage is offered as incidental to some other basic coverage, notwithstanding that the policy may provide automobile or motor vehicle liability coverage on insured premises or the ways immediately adjoining.

(2) The agreement specified in paragraph (1) shall be in the following form:

"The California Insurance Code requires an insurer to provide uninsured motorists coverage in each bodily injury liability insurance policy it issues covering liability arising out of the ownership, maintenance, or use of a motor vehicle. Such section also permits the insurer and the applicant to delete such coverage completely or to delete such coverage when a motor vehicle is operated by a natural person or persons designated by name, or agree to provide such coverage in an amount less than that required by subdivision (m) of Section 11580.2 of the Insurance Code, but not less than the financial responsibility requirements. Uninsured motorists coverage insures the insured, his heirs, or legal representatives for all sums within the limits established by law, which such person or persons are legally entitled to recover as damages for bodily injury, including any resulting sickness, disease, or death, to him from the owner or operator of an uninsured motor vehicle not owned or operated by

the insured."

The agreement may contain additional statements not in derogation of or in conflict with the foregoing. The execution of the agreement shall relieve the insurer of liability under this section while the agreement remains in effect.

(b) As used in (a) above, "bodily injury" includes sickness or disease, including death, resulting therefrom; the term "named insured" means only the individual or organization named in the declarations of the policy of motor vehicle bodily injury liability insurance referred to in (a) above; as used in (a) above the term "insured" means the named insured and the spouse of the named insured and, while residents of the same household, relatives of either while occupants of a motor vehicle or otherwise, heirs and any other person while in or upon or entering into or alighting from an insured motor vehicle and any person with respect to damages he or she is entitled to recover for care or loss of services because of bodily injury to which the policy provisions or endorsement apply; the term "insured motor vehicle" means the motor vehicle described in the underlying insurance policy of which the uninsured motorist endorsement or coverage is a part, a temporary substitute automobile for which liability coverage is provided in the policy or a newly acquired automobile for which liability coverage is provided in the policy if the motor vehicle is used by the named insured or with his or her permission or consent, express or implied, and any other automobile not owned by the named insured or any resident of the same household, or by a natural person or persons for whom coverage has been deleted in accordance with subdivision (a) while being operated by the named insured or his or her spouse if a resident of the same household, but the term "insured motor vehicle" shall not include any automobile while used as a public or livery conveyance.

As used in this section, the term "uninsured motor vehicle" means a motor vehicle with respect to the ownership, maintenance or use of which there is no bodily injury liability insurance or bond applicable at the time of the accident, or there is such applicable insurance or bond but the company writing the same denies coverage thereunder or refuses to admit coverage thereunder except conditionally or with reservation, or a motor vehicle used without the permission of the owner thereof if there is no bodily injury liability insurance or bond applicable at the time of the accident with respect to the owner or operator thereof, or the owner or operator thereof be unknown, provided that, with respect to an "uninsured motor vehicle" whose owner or operator is unknown:

(1) The bodily injury has arisen out of physical contact of the automobile with the insured or with an automobile which the insured is occupying.

(2) The insured or someone on his or her behalf shall have reported the accident within 24 hours to the police department of the city where the accident occurred or, if the accident occurred in

unincorporated territory then either the sheriff of the county where the accident occurred or the local headquarters of the California Highway Patrol, and have filed with the insurer within 30 days thereafter a statement under oath that the insured or his or her legal representative has or the insured's heirs have a cause of action arising out of the accident for damages against a person or persons whose identity is unascertainable and set forth facts in support thereof.

As used in this section, the term "uninsured motor vehicle" shall not include a motor vehicle owned or operated by the named insured or any resident of the same household or self-insured within the meaning of the Financial Responsibility Law of the state in which the motor vehicle is registered or which is owned by the United States of America, Canada, a state or political subdivision of any such government or an agency of any of the foregoing, or a land motor vehicle or trailer while located for use as a residence or premises and not as a vehicle, or any equipment or vehicle designed or modified for use primarily off public roads, except while actually upon public roads.

As used in this section, the term "uninsured motor vehicle" also means an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency. An insurer's solvency protection shall be applicable only to accidents occurring during a policy period in which its insured's motor vehicle coverage is in effect where the liability insurer of the tortfeasor becomes insolvent within one year of the accident. In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of such coverage, the insurer making the payment, shall to the extent thereof, be entitled to any proceeds which may be recoverable from the assets of the insolvent insurer through any settlement or judgment of the person against the insolvent insurer.

Nothing in this section is intended to exclude from the definition of an uninsured motor vehicle any private passenger type four wheel drive vehicle or motorcycle if that vehicle was subject to and failed to comply with the Financial Responsibility Law of this state.

(c) The insurance coverage provided for in this section does not apply either as primary or as excess coverage to:

(1) To property damage sustained by the insured.

(2) To bodily injury of the insured while in or upon or while entering into or alighting from a motor vehicle other than the described motor vehicle if the owner thereof has insurance similar to that provided in this section.

(3) To bodily injury of the insured with respect to which the insured or his or her representative shall, without the written consent of the insurer, make any settlement with or prosecute to judgment any action against any person who may be legally liable therefor.

(4) In any instance where it would inure directly or indirectly to

the benefit of any workers' compensation carrier or to any person qualified as a self-insurer under any workers' compensation law, or directly to the benefit of the United States, or any state or any political subdivision thereof.

(5) To establish proof of financial responsibility as provided in subdivisions (a), (b), and (c) of Section 16054 of the Vehicle Code.

(6) To bodily injury of the insured while occupying a motor vehicle owned by an insured, unless the occupied vehicle is an insured motor vehicle.

(7) To bodily injury of the insured when struck by a vehicle owned by an insured.

(d) Subject to paragraph (2) of subdivision (c), the policy or endorsement may provide that if the insured has insurance available to the insured under more than one uninsured motorist coverage provision, any damages shall not be deemed to exceed the higher of the applicable limits of the respective coverages, and such damages shall be prorated between the applicable coverages as the limits of each coverage bear to the total of such limits.

(e) The policy or endorsement added thereto may provide that if the insured has valid and collectible automobile medical payment insurance available to him or her, the damages which the insured shall be entitled to recover from the owner or operator of an uninsured motor vehicle shall be reduced for purposes of uninsured motorist coverage by the amounts paid or due to be paid under the automobile medical payment insurance. This subdivision shall become operative on January 1, 1971.

(f) The policy or an endorsement added thereto shall provide that the determination as to whether the insured shall be legally entitled to recover damages, and if so entitled, the amount thereof, shall be made by agreement between the insured and the insurer or, in the event of disagreement, by arbitration. The arbitration shall be conducted by a single neutral arbitrator. An award or a judgment confirming an award shall not be conclusive on any party in any action or proceeding between (i) the insured, his or her insurer, his or her legal representative, or his or her heirs and (ii) the uninsured motorist to recover damages arising out of the accident upon which the award is based. If the insured has or may have rights to benefits, other than nonoccupational disability benefits, under any workers' compensation law, the arbitrator shall not proceed with the arbitration until the insured's physical condition is stationary and ratable. In those cases in which the insured claims a permanent disability, the claims shall, unless good cause be shown, be adjudicated by award or settled by compromise and release before the arbitration may proceed. Any demand or petition for arbitration shall contain a declaration, under penalty of perjury, stating whether (i) the insured has a workers' compensation claim; (ii) the claim has proceeded to findings and award or settlement on all issues reasonably contemplated to be determined in that claim; and (iii) if not, what reasons amounting to good cause are grounds for the

arbitration to proceed immediately. The arbitration shall be deemed to be a proceeding and the hearing before the arbitrator shall be deemed to be the trial of an issue therein for purposes of issuance of a subpoena by an attorney of a party to the arbitration under Section 1985 of the Code of Civil Procedure. The provisions of Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall be applicable to these determinations, and all rights, remedies, obligations, liabilities and procedures set forth in Article 3 shall be available to both the insured and the insurer at any time after the accident, both before and after the commencement of arbitration, if any, with the following limitations:

(1) Whenever in Article 3, reference is made to the court in which the action is pending, or provision is made for application to the court or obtaining leave of court or approval by the court, the court which shall have jurisdiction for the purposes of this section shall be the superior court of the State of California, in and for any county which is a proper county for the filing of a suit for bodily injury arising out of the accident, against the uninsured motorist, or any county specified in the policy or an endorsement added thereto as a proper county for arbitration or action thereon.

(2) Any such proper court to which application is first made by either the insured or the insurer under the provisions of Article 3 for any discovery or other relief or remedy, shall thereafter be the only court to which either of the parties shall make any applications under Article 3 with respect to the same accident, subject, however, to the right of the court to grant a change of venue after a hearing upon notice, upon any of the grounds upon which change of venue might be granted in an action filed in the superior court.

(3) A deposition pursuant to the provisions of Section 2016 of the Code of Civil Procedure may be taken without leave of court, except that leave of court, granted with or without notice and for good cause shown, must be obtained if the notice of the taking of the deposition is served by either party within 20 days after the accident.

(4) The provisions of paragraph (4) of subdivision (a) of Section 2019 of the Code of Civil Procedure shall not be applicable to discovery under this section.

(5) For the purposes of discovery under this section, the insured and the insurer shall each be deemed to be "a party to the record of any civil action or proceedings," where that phrase is used in paragraph (2) of subdivision (b) of Section 2019 of the Code of Civil Procedure.

(6) Interrogatories under the provisions of Section 2030 of the Code of Civil Procedure and requests for admission under Section 2033 of the Code of Civil Procedure may be served by either the insured or the insurer upon the other at any time more than 20 days after the accident without leave of court.

(7) Nothing in this section shall be construed to limit the rights of any party to discovery in any action pending or which may hereafter

be pending in any court.

(g) The insurer paying a claim under an uninsured motorist endorsement or coverage shall be entitled to be subrogated to the rights of the insured to whom such claim was paid against any person legally liable for such injury or death to the extent that payment was made. Such action may be brought within three years from the date that payment was made hereunder.

(h) An insured entitled to recovery under the uninsured motorist endorsement or coverage shall be reimbursed within the conditions stated herein without being required to sign any release or waiver of rights to which he or she may be entitled under any other insurance coverage applicable; nor shall payment under this section to such insured be delayed or made contingent upon the decisions as to liability or distribution of loss costs under other bodily injury liability insurance or any bond applicable to the accident. Any loss payable under the terms of the uninsured motorist endorsement or coverage to or for any person may be reduced:

(1) By the amount paid and the present value of all amounts payable to him or her, his or her executor, administrator, heirs, or legal representative under any workers' compensation law, exclusive of nonoccupational disability benefits.

(2) By the amount the insured is entitled to recover from any other person insured under the underlying liability insurance policy of which the uninsured motorist endorsement or coverage is a part.

(i) No cause of action shall accrue to the insured under any policy or endorsement provision issued pursuant to this section unless within one year from the date of the accident:

(1) Suit for bodily injury has been filed against the uninsured motorist, in a court of competent jurisdiction and notice of such suit has been given the insurer, or

(2) Agreement as to the amount due under the policy has been concluded, or

(3) The insured has formally instituted arbitration proceedings.

(j) Notwithstanding the provisions of subdivisions (b) and (i), in the event the accident occurs in any other state or foreign jurisdiction to which coverage is extended under the policy and the insurer of the tortfeasor becomes insolvent, any action authorized pursuant to the provisions of this section may be maintained within three months of the insolvency of the tortfeasor's insurer, but in no event later than the pertinent period of limitation of the jurisdiction in which the accident occurred.

(k) Notwithstanding the provisions of subdivision (i), any insurer whose insured has made a claim under his or her uninsured motorist coverage, and such claim is pending, shall, at least 30 days before the expiration of the applicable statute of limitation, notify its insured in writing of the statute of limitation applicable to the injury or death. Failure of the insurer to provide the written notice shall operate to toll any applicable statute of limitation or other time limitation for a period of 30 days from the date the written notice is actually given.

The notice shall not be required if the insurer has received notice that the insured is represented by an attorney.

(*l*) As used in subdivision (b), "public or livery conveyance," or terms of similar import, shall not include the operation or use of a motor vehicle by the named insured in the performance of volunteer services for a nonprofit charitable organization or governmental agency by providing social service transportation as defined in subdivision (f) of Section 11580.1. This subdivision shall apply only to policies of insurance issued, amended, or renewed on or after January 1, 1976.

(m) Coverage provided under an uninsured motorist endorsement or coverage shall be offered with coverage limits equal to the limits of liability for bodily injury in the underlying policy of insurance, but shall not be required to be offered with limits in excess of the following amounts:

(1) A limit of thirty thousand dollars ($30,000) because of bodily injury to or death of one person in any one accident.

(2) Subject to the limit for one person set forth in paragraph (1), a limit of sixty thousand dollars ($60,000) because of bodily injury to or death of two or more persons in any one accident.

(n) If an insured has failed to provide an insurer with wage loss information or medical treatment record releases within 15 days of the insurer's request or has failed to submit to a medical examination arranged by the insurer within 20 days of the insurer's request, the insurer may, at any time prior to 30 days before the actual arbitration proceedings commence, request, and the insured shall furnish, wage loss information or medical treatment record releases, and the insurer may require the insured, except during periods of hospitalization, to make himself or herself available for a medical examination. The wage loss information or medical treatment record releases shall be submitted by the insured within 10 days of request and the medical examination shall be arranged by the insurer no sooner than 10 days after request, unless the insured agrees to an earlier examination date, and not later than 20 days after the request. If the insured fails to comply with the requirements of this subdivision, the actual arbitration proceedings shall be stayed for at least 30 days following compliance by the insured. The proceedings shall be scheduled as soon as practicable following expiration of the 30-day period.

SEC. 2. Section 11580.2 of the Insurance Code is amended to read:

11580.2. (a) (1) No policy of bodily injury liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle, except for policies which provide insurance in the Republic of Mexico issued or delivered in this state by nonadmitted Mexican insurers, shall be issued or delivered in this state to the owner or operator of a motor vehicle, or shall be issued or delivered by any insurer licensed in this state upon any motor vehicle then principally used or principally garaged in this state,

unless the policy contains, or has added to it by endorsement, a provision with coverage limits at least equal to the limits specified in subdivision (m) and in no case less than the financial responsibility requirements specified in Section 16056 of the Vehicle Code insuring the insured, the insured's heirs or legal representative for all sums within such limits which he, she, or they, as the case may be, shall be legally entitled to recover as damages for bodily injury or wrongful death from the owner or operator of an uninsured motor vehicle. The insurer and any named insured, prior to or subsequent to the issuance or renewal of a policy, may, by agreement in writing, in the form specified in paragraph (2), delete the provision covering damage caused by an uninsured motor vehicle (1) completely, or (2) delete such coverage when a motor vehicle is operated by a natural person or persons designated by name, or agree to provide such coverage in an amount less than that required by subdivision (m) but not less than the financial responsibility requirements specified in Section 16056 of the Vehicle Code. Any such agreements by any named insured or agreement for the amount of coverage shall be binding upon every insured to whom the policy or endorsement provisions apply while the policy is in force, and shall continue to be so binding with respect to any continuation or renewal of the policy or with respect to any other policy which extends, changes, supersedes, or replaces the policy issued to the named insured by the same insurer, or with respect to reinstatement of the policy within 30 days of any lapse thereof. A policy shall be excluded from the application of this section if the only coverage with respect to the use of any motor vehicle is limited to the contingent liability arising out of the use of nonowned motor vehicles or if the automobile liability coverage is provided only on an excess or umbrella basis. Nothing in this section shall be construed to require that uninsured motorist coverage shall be offered or provided in any homeowner policy, personal and residents' liability policy, comprehensive personal liability policy, manufacturers' and contractors' policy, premises liability policy, special multiperil policy, or any other policy or endorsement where automobile liability coverage is offered as incidental to some other basic coverage, notwithstanding that the policy may provide automobile or motor vehicle liability coverage on insured premises or the ways immediately adjoining.

(2) The agreement specified in paragraph (1) shall be in the following form:

"The California Insurance Code requires an insurer to provide uninsured motorists coverage in each bodily injury liability insurance policy it issues covering liability arising out of the ownership, maintenance, or use of a motor vehicle. Such section also permits the insurer and the applicant to delete such coverage completely or to delete such coverage when a motor vehicle is operated by a natural person or persons designated by name, or agree to provide such coverage in an amount less than that required by subdivision (m) of Section 11580.2 of the Insurance Code, but not less than the financial

responsibility requirements. Uninsured motorists coverage insures the insured, his heirs, or legal representatives for all sums within the limits established by law, which such person or persons are legally entitled to recover as damages for bodily injury, including any resulting sickness, disease, or death, to him from the owner or operator of an uninsured motor vehicle not owned or operated by the insured or a resident of the same household. An uninsured motor vehicle includes an underinsured motor vehicle as defined in subdivision (p) of Section 11580.2 of the Insurance Code."

The agreement may contain additional statements not in derogation of or in conflict with the foregoing. The execution of the agreement shall relieve the insurer of liability under this section while the agreement remains in effect.

(b) As used in (a) above, "bodily injury" includes sickness or disease, including death, resulting therefrom; the term "named insured" means only the individual or organization named in the declarations of the policy of motor vehicle bodily injury liability insurance referred to in (a) above; as used in (a) above the term "insured" means the named insured and the spouse of the named insured and, while residents of the same household, relatives of either while occupants of a motor vehicle or otherwise, heirs and any other person while in or upon or entering into or alighting from an insured motor vehicle and any person with respect to damages he or she is entitled to recover for care or loss of services because of bodily injury to which the policy provisions or endorsement apply; the term "insured motor vehicle" means the motor vehicle described in the underlying insurance policy of which the uninsured motorist endorsement or coverage is a part, a temporary substitute automobile for which liability coverage is provided in the policy or a newly acquired automobile for which liability coverage is provided in the policy if the motor vehicle is used by the named insured or with his or her permission or consent, express or implied, and any other automobile not owned by the named insured or any resident of the same household, or by a natural person or persons for whom coverage has been deleted in accordance with subdivision (a) while being operated by the named insured or his or her spouse if a resident of the same household, but the term "insured motor vehicle" shall not include any automobile while used as a public or livery conveyance. As used in this section, the term "uninsured motor vehicle" means a motor vehicle with respect to the ownership, maintenance or use of which there is no bodily injury liability insurance or bond applicable at the time of the accident, or there is such applicable insurance or bond but the company writing the same denies coverage thereunder or refuses to admit coverage thereunder except conditionally or with reservation, or an "underinsured motor vehicle" as defined in subdivision (p), or a motor vehicle used without the permission of the owner thereof if there is no bodily injury liability insurance or bond applicable at the time of the accident with respect to the owner or operator thereof, or the owner

or operator thereof be unknown, provided that, with respect to an "uninsured motor vehicle" whose owner or operator is unknown:

(1) The bodily injury has arisen out of physical contact of the automobile with the insured or with an automobile which the insured is occupying.

(2) The insured or someone on his or her behalf shall have reported the accident within 24 hours to the police department of the city where the accident occurred or, if the accident occurred in unincorporated territory then either the sheriff of the county where the accident occurred or the local headquarters of the California Highway Patrol, and have filed with the insurer within 30 days thereafter a statement under oath that the insured or his or her legal representative has or the insured's heirs have a cause of action arising out of the accident for damages against a person or persons whose identity is unascertainable and set forth facts in support thereof. As used in this section, the term "uninsured motor vehicle" shall not include a motor vehicle owned or operated by the named insured or any resident of the same household or self-insured within the meaning of the Financial Responsibility Law of the state in which the motor vehicle is registered or which is owned by the United States of America, Canada, a state or political subdivision of any such government or an agency of any of the foregoing, or a land motor vehicle or trailer while located for use as a residence or premises and not as a vehicle, or any equipment or vehicle designed or modified for use primarily off public roads, except while actually upon public roads.

As used in this section, the term "uninsured motor vehicle" also means an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency. An insurer's solvency protection shall be applicable only to accidents occurring during a policy period in which its insured's motor vehicle coverage is in effect where the liability insurer of the tortfeasor becomes insolvent within one year of the accident. In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of such coverage, the insurer making the payment, shall to the extent thereof, be entitled to any proceeds which may be recoverable from the assets of the insolvent insurer through any settlement or judgment of the person against the insolvent insurer.

Nothing in this section is intended to exclude from the definition of an uninsured motor vehicle any motorcycle or private passenger type four-wheel drive motor vehicle if that vehicle was subject to and failed to comply with the Financial Responsibility Law of this state.

(c) The insurance coverage provided for in this section does not apply either as primary or as excess coverage to:

(1) To property damage sustained by the insured.

(2) To bodily injury of the insured while in or upon or while entering into or alighting from a motor vehicle other than the

described motor vehicle if the owner thereof has insurance similar to that provided in this section.

(3) To bodily injury of the insured with respect to which the insured or his or her representative shall, without the written consent of the insurer, make any settlement with or prosecute to judgment any action against any person who may be legally liable therefor.

(4) In any instance where it would inure directly or indirectly to the benefit of any workers' compensation carrier or to any person qualified as a self-insurer under any workers' compensation law, or directly to the benefit of the United States, or any state or any political subdivision thereof.

(5) To establish proof of financial responsibility as provided in subdivisions (a), (b), and (c) of Section 16054 of the Vehicle Code.

(6) To bodily injury of the insured while occupying a motor vehicle owned by an insured, unless the occupied vehicle is an insured motor vehicle.

(7) To bodily injury of the insured when struck by a vehicle owned by an insured.

(d) Subject to paragraph (2) of subdivision (c), the policy or endorsement may provide that if the insured has insurance available to the insured under more than one uninsured motorist coverage provision, any damages shall not be deemed to exceed the higher of the applicable limits of the respective coverages, and such damages shall be prorated between the applicable coverages as the limits of each coverage bear to the total of such limits.

(e) The policy or endorsement added thereto may provide that if the insured has valid and collectible automobile medical payment insurance available to him or her, the damages which the insured shall be entitled to recover from the owner or operator of an uninsured motor vehicle shall be reduced for purposes of uninsured motorist coverage by the amounts paid or due to be paid under the automobile medical payment insurance. This subdivision shall become operative on January 1, 1971.

(f) The policy or an endorsement added thereto shall provide that the determination as to whether the insured shall be legally entitled to recover damages, and if so entitled, the amount thereof, shall be made by agreement between the insured and the insurer or, in the event of disagreement, by arbitration. The arbitration shall be conducted by a single neutral arbitrator. An award or a judgment confirming an award shall not be conclusive on any party in any action or proceeding between (i) the insured, his or her insurer, his or her legal representative, or his or her heirs and (ii) the uninsured motorist to recover damages arising out of the accident upon which the award is based. If the insured has or may have rights to benefits, other than nonoccupational disability benefits, under any workers' compensation law, the arbitrator shall not proceed with the arbitration until the insured's physical condition is stationary and ratable. In those cases in which the insured claims a permanent

disability, the claims shall, unless good cause be shown, be adjudicated by award or settled by compromise and release before the arbitration may proceed. Any demand or petition for arbitration shall contain a declaration, under penalty of perjury, stating whether (i) the insured has a workers' compensation claim; (ii) the claim has proceeded to findings and award or settlement on all issues reasonably contemplated to be determined in that claim; and (iii) if not, what reasons amounting to good cause are grounds for the arbitration to proceed immediately. The arbitration shall be deemed to be a proceeding and the hearing before the arbitrator shall be deemed to be the trial of an issue therein for purposes of issuance of a subpoena by an attorney of a party to the arbitration under Section 1985 of the Code of Civil Procedure. The provisions of Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall be applicable to these determinations, and all rights, remedies, obligations, liabilities and procedures set forth in Article 3 shall be available to both the insured and the insurer at any time after the accident, both before and after the commencement of arbitration, if any, with the following limitations:

(1) Whenever in Article 3, reference is made to the court in which the action is pending, or provision is made for application to the court or obtaining leave of court or approval by the court, the court which shall have jurisdiction for the purposes of this section shall be the superior court of the State of California, in and for any county which is a proper county for the filing of a suit for bodily injury arising out of the accident, against the uninsured motorist, or any county specified in the policy or an endorsement added thereto as a proper county for arbitration or action thereon.

(2) Any such proper court to which application is first made by either the insured or the insurer under the provisions of Article 3 for any discovery or other relief or remedy, shall thereafter be the only court to which either of the parties shall make any applications under Article 3 with respect to the same accident, subject, however, to the right of the court to grant a change of venue after a hearing upon notice, upon any of the grounds upon which change of venue might be granted in an action filed in the superior court.

(3) A deposition pursuant to the provisions of Section 2016 of the Code of Civil Procedure may be taken without leave of court, except that leave of court, granted with or without notice and for good cause shown, must be obtained if the notice of the taking of the deposition is served by either party within 20 days after the accident.

(4) The provisions of paragraph (4) of subdivision (a) of Section 2019 of the Code of Civil Procedure shall not be applicable to discovery under this section.

(5) For the purposes of discovery under this section, the insured and the insurer shall each be deemed to be "a party to the record of any civil action or proceedings," where that phrase is used in paragraph (2) of subdivision (b) of Section 2019 of the Code of Civil

Procedure.

(6) Interrogatories under the provisions of Section 2030 of the Code of Civil Procedure and requests for admission under Section 2033 of the Code of Civil Procedure may be served by either the insured or the insurer upon the other at any time more than 20 days after the accident without leave of court.

(7) Nothing in this section shall be construed to limit the rights of any party to discovery in any action pending or which may hereafter be pending in any court.

(g) The insurer paying a claim under an uninsured motorist endorsement or coverage shall be entitled to be subrogated to the rights of the insured to whom such claim was paid against any person legally liable for such injury or death to the extent that payment was made. Such action may be brought within three years from the date that payment was made hereunder.

(h) An insured entitled to recovery under the uninsured motorist endorsement or coverage shall be reimbursed within the conditions stated herein without being required to sign any release or waiver of rights to which he or she may be entitled under any other insurance coverage applicable; nor shall payment under this section to such insured be delayed or made contingent upon the decisions as to liability or distribution of loss costs under other bodily injury liability insurance or any bond applicable to the accident. Any loss payable under the terms of the uninsured motorist endorsement or coverage to or for any person may be reduced:

(1) By the amount paid and the present value of all amounts payable to him or her, his or her executor, administrator, heirs, or legal representative under any workers' compensation law, exclusive of nonoccupational disability benefits.

(2) By the amount the insured is entitled to recover from any other person insured under the underlying liability insurance policy of which the uninsured motorist endorsement or coverage is a part.

(i) No cause of action shall accrue to the insured under any policy or endorsement provision issued pursuant to this section unless within one year from the date of the accident:

(1) Suit for bodily injury has been filed against the uninsured motorist, in a court of competent jurisdiction and notice of such suit has been given the insurer, or

(2) Agreement as to the amount due under the policy has been concluded, or

(3) The insured has formally instituted arbitration proceedings.

(j) Notwithstanding the provisions of subdivisions (b) and (i), in the event the accident occurs in any other state or foreign jurisdiction to which coverage is extended under the policy and the insurer of the tortfeasor becomes insolvent, any action authorized pursuant to the provisions of this section may be maintained within three months of the insolvency of the tortfeasor's insurer, but in no event later than the pertinent period of limitation of the jurisdiction in which the accident occurred.

(k) Notwithstanding the provisions of subdivision (i), any insurer whose insured has made a claim under his or her uninsured motorist coverage, and such claim is pending, shall, at least 30 days before the expiration of the applicable statute of limitation, notify its insured in writing of the statute of limitation applicable to the injury or death. Failure of the insurer to provide the written notice shall operate to toll any applicable statute of limitation or other time limitation for a period of 30 days from the date the written notice is actually given. The notice shall not be required if the insurer has received notice that the insured is represented by an attorney.

(*l*) As used in subdivision (b), "public or livery conveyance," or terms of similar import, shall not include the operation or use of a motor vehicle by the named insured in the performance of volunteer services for a nonprofit charitable organization or governmental agency by providing social service transportation as defined in subdivision (f) of Section 11580.1. This subdivision shall apply only to policies of insurance issued, amended, or renewed on or after January 1, 1976.

(m) Coverage provided under an uninsured motorist endorsement or coverage shall be offered with coverage limits equal to the limits of liability for bodily injury in the underlying policy of insurance, but shall not be required to be offered with limits in excess of the following amounts:

(1) A limit of thirty thousand dollars ($30,000) because of bodily injury to or death of one person in any one accident.

(2) Subject to the limit for one person set forth in paragraph (1), a limit of sixty thousand dollars ($60,000) because of bodily injury to or death of two or more persons in any one accident.

(n) Underinsured motorist coverage shall be offered with limits equal to the limits of liability for the insured's uninsured motorist limits in the underlying policy, and may be offered with limits in excess of such uninsured motorist coverage. For the purposes of this section, uninsured and underinsured motorist coverage shall be offered as a single coverage. However, an insurer may offer coverage for damages for bodily injury or wrongful death from the owner or operator of an underinsured motor vehicle at greater limits than an uninsured motor vehicle.

(o) If an insured has failed to provide an insurer with wage loss information or medical treatment record releases within 15 days of the insurer's request or has failed to submit to a medical examination arranged by the insurer within 20 days of the insurer's request, the insurer may, at any time prior to 30 days before the actual arbitration proceedings commence, request, and the insured shall furnish, wage loss information or medical treatment record releases, and the insurer may require the insured, except during periods of hospitalization, to make himself or herself available for a medical examination. The wage loss information or medical treatment record releases shall be submitted by the insured within 10 days of request and the medical examination shall be arranged by the insurer no

sooner than 10 days after request, unless the insured agrees to an earlier examination date, and not later than 20 days after the request. If the insured fails to comply with the requirements of this subdivision, the actual arbitration proceedings shall be stayed for at least 30 days following compliance by the insured. The proceedings shall be scheduled as soon as practicable following expiration of the 30-day period.

(p) This subdivision applies only when bodily injury, as defined in subdivision (b), is caused by an underinsured motor vehicle. If the provisions of this subdivision conflict with subdivisions (a) through (o), the provisions of this subdivision shall prevail.

(1) As used in this subdivision, "an insured motor vehicle" is one that is insured under a motor vehicle liability policy, or automobile liability insurance policy, self-insured, or for which a cash deposit or bond has been posted to satisfy a financial responsibility law.

(2) "Underinsured motor vehicle" means a motor vehicle that is an insured motor vehicle but insured for an amount that is less than the uninsured motorist limits carried on the motor vehicle of the injured person.

(3) This coverage does not apply to any bodily injury until the limits of bodily injury liability policies applicable to all insured motor vehicles causing the injury have been exhausted by payment of judgments or settlements, and proof of such is submitted to the insurer providing the underinsured motorist coverage.

(4) When bodily injury is caused by one or more motor vehicles, whether insured, underinsured, or uninsured, the maximum liability of the insurer providing the underinsured motorist coverage shall not exceed the insured's underinsured motorist coverage limits, less the amount paid to the insured by or for any person or organization that may be held legally liable for the injury.

(5) The insurer paying a claim under this subdivision shall, to the extent of such payment, be entitled to reimbursement or credit in the amount received by the insured from the owner or operator of the underinsured motor vehicle or the insurer of such owner or operator.

(6) If the insured brings an action against the owner or operator of an underinsured motor vehicle, he or she shall forthwith give to the insurer providing the underinsured motorist coverage a copy of the complaint by personal service or certified mail. All pleadings and depositions shall be made available for copying or copies furnished the insurer, at the insurer's expense, within a reasonable time.

(7) Underinsured motorist coverage shall be included in all policies of bodily injury liability insurance providing uninsured motorist coverage issued or renewed on or after July 1, 1985. Notwithstanding this section, an agreement to delete uninsured motorist coverage completely, or with respect to a person or persons designated by name, executed prior to July 1, 1985, shall remain in full force and effect.

(q) Regardless of the number of vehicles involved whether

insured or not, persons covered, claims made, premiums paid or the number of premiums shown on the policy, in no event shall the limit of liability for two or more motor vehicles or two or more policies be added together, combined, or stacked to determine the limit of insurance coverage available to injured persons.

SEC. 3. Section 2 of this bill incorporates amendments to Section 11580.2 of the Insurance Code proposed by both this bill and AB 3984. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 11580.2 of the Insurance Code, and (3) this bill is enacted after AB 3984, in which case Section 1 of this bill shall not become operative.

CHAPTER 1362

An act to amend Sections 15327 and 15328 of the Government Code, relating to economic and business development, and making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 15327 of the Government Code is amended to read:

15327. In order to carry out the provisions of this chapter, there is hereby created in the State Treasury the California Economic Development Grant and Loan Fund.

The California Economic Development Grant and Loan Fund is created only for the purpose of: (a) receiving federal, state, and local money for subsequent allocation by the department in the form of grants or loans to public agencies and private entities; (b) receiving repayments of loans or grants and interest on those loans and grants for subsequent reallocation as grants or loans without regard to a federal matching share so long as the proceeds are used for economic development in a manner consistent with Section 304 of Public Law 89-136 (42 U.S.C. 3153); and (c) receiving fees for subsequent expenditure as authorized by Section 15328. These conditions shall apply retroactively to all federal, state, and local moneys, including interest received by, allocated by, and returned to the Department of Economic and Business Development since its inception in 1975.

State funds allocated to the fund in excess of any amount needed to match the federal, state, and local funds, shall be available for economic development grants or loans or both, without regard to the matching share.

All money deposited in the California Economic Development Grant and Loan Fund shall remain available, and is continuously appropriated, until expended or obligated without regard to fiscal

years for purposes of this chapter.

At the request of the director, the State Treasurer shall invest existing moneys in the fund pursuant to Sections 16470 through 16475 and to the extent and under the conditions specified by present law.

The department may advance to the recipient up to 50 percent of the state's share of any loan or grant awarded once final approvals have been made by the state.

SEC. 2. Section 15328 of the Government Code is amended to read:

15328. In order to defray costs to the department for administration of its direct loans and grant programs, the department may impose reasonable charges on all applications, approved grants, and approved loans. The department may use these fees or other charges for those costs necessary to protect the state's position as a lender-creditor. These costs include, but are not limited to, foreclosure expenses, auction fees, title searches, appraisals, real estate brokerage fees, removal and storage costs for repossessed equipment and inventory, and additional expenditures to purchase a senior lien in foreclosure or bankruptcy proceedings.

CHAPTER 1363

An act to add Section 9133 to the Government Code, relating to legislative funds.

[Approved by Governor September 25, 1926. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 9133 is added to the Government Code, to read:

9133. (a) The Joint Rules Committee shall annually contract for an independent audit or audits of the expenditures of the Assembly Contingent Fund, the Senate Contingent Fund, the Contingent Funds of the Assembly and Senate, expenditures for legislative printing, and General Fund expenditures for reimbursement of Members of the Legislature pursuant to Sections 8902 and 8903. These audits shall be made in accordance with generally accepted auditing standards established by the American Institute of Certified Public Accountants.

(b) These audits shall each include, but need not be limited to, an evaluation of:

(1) The expenditures in each category described in Section 9131.

(2) The accuracy of the financial statements of the rules committees.

(c) These independent audits shall be completed, and reports thereon made to the respective houses of the Legislature, by April

30 of each year for the previous year ending November 30.

CHAPTER 1364

An act to amend Section 44478 of, and to add Article 2.5 (commencing with Section 52130) to Chapter 7 of Part 28 of, the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 44478 of the Education Code is amended to read:

44478. (a) The demonstration of the competencies under Section 44477 for teachers in kindergarten through grade 12 holding a valid California teaching credential may be demonstrated either through: (1) an approved college or university training program and state examination, or (2) teaching experience pursuant to subdivision (c) and the passing of the approved state examination.

(b) A college or university training program shall consist of not less than 24 approved semester units, or quarter unit equivalents, which shall include, but need not be limited to, an emphasis on the teaching of pupils of limited-English proficiency in accordance with the standards for approval established by the commission, including:

(1) The structure and role of language.

(2) Psychosocial and cultural factors in language acquisition.

(3) Theories and methods of bilingual education.

(4) Analysis of the English language for teaching purposes.

(5) Theories and methods of teaching English to speakers of other languages.

(6) Testing, diagnosis, language assessment, and evaluation.

(7) Materials for use in classes for pupils of limited-English proficiency.

(8) The practicum in teaching English to speakers of other languages. In adopting coursework standards the commission shall relate the coursework requirements to the competencies established pursuant to subdivision (b) of Section 44477.

(c) Persons holding a valid California teaching credential may make direct application to the commission to take the state examination if they have at a minimum either of the following:

(1) Two years in a teaching assignment or its equivalent during which the major part of the assignment was spent in the provision of instruction to pupils of limited-English proficiency.

(2) One year of full-time teaching experience with pupils of limited-English proficiency, and the possession of a certificate or

degree in English for Speakers of Other Languages (ESOL).

(d) In order to demonstrate his or her competency under subdivision (b) or (c), a teacher shall take and pass the state examination for a language development specialist.

(e) Teachers meeting the qualifications prescribed by paragraph (1) or (2) of subdivision (c) may be authorized by the employing school district to serve as language development specialists pending the initial administration of the state examination for a language development specialist certificate by the Commission on Teacher Credentialing. Teachers authorized under this subdivision may continue to serve as language development specialists for the remainder of the school year if they take the state examination for a language development specialist certificate upon its initial administration. Nothing in this section shall be construed, however, to permit these teachers to continue to serve as language development specialists in subsequent school years unless they have passed the state examination, except that the State Board of Education may authorize one additional year of service upon a demonstration of extenuating circumstances.

SEC. 2. Article 2.5 (commencing with Section 52130) is added to Chapter 7 of Part 28 of the Education Code, to read:

Article 2.5. Impacted Languages Act of 1984

52130. This act shall be known and may be cited as the Impacted Languages Act of 1984.

52131. The Legislature hereby finds and declares that there is a need to provide relief to school districts which are highly impacted by the enrollment of refugee pupils or pupils whose primary languages are sufficiently diverse and in low population concentrations and for which there is a lack of substantive primary language curriculum materials and an insufficient number of trained bilingual-crosscultural teachers in these primary languages.

52132. Unless the context otherwise requires, the definitions set forth in this section govern the construction of this article.

(a) "Impacted languages" means those primary languages spoken by pupils assessed as being limited-English proficient or who otherwise require bilingual instruction pursuant to Article 3 (commencing with Section 51260), and for which the Superintendent of Public Instruction determines not later than August 1 of each year both of the following:

(1) That there is a lack of language arts and other subject content curriculum materials in each respective language group with pupil populations which are sufficient to implement a basic bilingual education program pursuant to subdivision (a) of Section 52163.

(2) That there is an insufficient number of persons possessing bilingual credentials or certificates of competence to provide bilingual instruction in each respective language pursuant to the requirements of Article 3 (commencing with Section 52160). It is the

intent of the Legislature in enacting this article to authorize school districts to implement impacted language programs in which instruction is provided by language development specialists in accordance with the requirements of this article in lieu of programs in bilingual-crosscultural instructional programs prescribed by Section 52165.

(b) "Impacted language program" is a program of self-contained classroom instruction for pupils from impacted language groups which, at a minimum, consists of one hour per instructional day of English language development in addition to basic skills and subject content instruction which involves bilingual-crosscultural teacher aides or impacted language liaisons and which utilizes a modified curriculum which is capable of meeting the language and instructional needs of these pupils. To the extent feasible, appropriate primary language instruction shall be designed to facilitate basic skills and subject content instruction by a language development specialist.

(c) "Impacted language liaison" means a person employed by a school district in a noninstructional capacity who is fluent in the primary language of the pupils in one of the impacted language groups affected and who possesses receptive and productive English language skills which will enable that person to facilitate communication between classroom teachers and impacted language pupils and communication between the school and parents of these pupils.

52133. (a) School districts which elect to implement an impacted language program in accordance with the requirements of this article shall submit an application to the State Department of Education certifying that there are insufficient appropriately qualified bilingual-crosscultural teachers available for employment in the district. The application shall also demonstrate that the program will provide for all of the following:

(1) The conducting of at least one public hearing for purposes of planning an impacted language program.

(2) The development of language arts and subject content curricula for impacted language groups utilizing available state and federal funding.

(3) Documented evidence that existing bilingual-crosscultural instructional programs will not be adversely affected or reduced through the implementation of an impacted language program.

(4) Where appropriate, the employment of impacted language liaisons to facilitate communication between school personnel, pupils, and parents of impacted language groups.

(5) The establishment of a plan for the recruitment of bilingual-crosscultural teachers, the development of career ladder opportunities, and in-service training programs.

(6) Documentation that the community and impacted language populations have been consulted regarding the implementation of an impacted language program.

(7) The submission of an annual report to the State Department of Education in the manner prescribed by the department regarding the number of classes established under the program and the number of pupils served.

(b) No application submitted pursuant to this section shall be approved by the Superintendent of Public Instruction if he or she determines that there is an approved bilingual teacher training institution that is enrolling students for the impacted language for which an application has been submitted which is within a reasonable distance from the applicant school district.

52134. (a) The Commission on Teacher Credentialing shall issue certificates of language development specialist competence authorizing persons meeting the requirements of Article 3.5 (commencing with Section 44475) of Chapter 3 of Part 25 to provide instruction in impacted language programs. The certificates shall authorize the holders to provide English language development instruction and subject content instruction as follows:

(1) To pupils in impacted language programs in kindergarten and grades 1 through 12.

(2) To pupils participating in planned variation programs pursuant to subdivision (c) of Section 52163.

(3) To pupils in secondary level individual learning programs pursuant to subdivision (e) of Section 52163.

(b) The commission shall provide for the issuance of certificates of language development specialist competence to provide instruction in impacted language programs on or before March 1, 1985. The commission shall provide for the initial examination for these certificates on or before April 1, 1985.

(c) On or before June 1, 1985, the commission shall develop a plan demonstrating how existing teacher training, bilingual-crosscultural teacher training, and English-as-a-second-language training programs may encourage teacher candidates to provide instruction in an impacted language program.

52135. The State Board of Education shall adopt rules and regulations necessary for the effective implementation of this article by July 1, 1985.

52136. The Superintendent of Public Instruction shall monitor the implementation of impacted language programs and shall submit an annual report to the Legislature on the number of pupils served by each impacted language group and grade level.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to enable school districts which are highly impacted by the enrollment of pupils for whom there are an insufficient number of trained bilingual-crosscultural teachers and bilingual-crosscultural programs to commence proceedings to establish impacted language programs in accordance with the requirements of this act at the

earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1365

An act to amend Section 4181 of, to add Sections 4181.1 and 4190 to, and to repeal Section 4183 of, the Fish and Game Code, relating to depredators.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 4181 of the Fish and Game Code is amended to read:

4181. Except as provided in Section 4181.1, any owner or tenant of land or property that is being damaged or destroyed or is in danger or being damaged or destroyed by elk, bear, beaver, wild pig, or gray squirrels, may apply to the department for a permit to kill any such mammals. The department, upon satisfactory evidence of the damage or destruction, actual or immediately threatened, shall issue a revocable permit for the taking and disposition of the mammals under regulations promulgated by the commission. Mammals so taken shall not be sold, nor shipped from the premises on which they are taken except under instructions from the department. No iron- or steel-jawed or any type of metal-jawed trap shall be used to take any bear pursuant to this section. No poison of any type may be used to take any gray squirrel pursuant to this section. The department shall designate the type of trap to be used to insure the most humane method is used to trap gray squirrels. The department may require trapped squirrels to be released in parks or other nonagricultural areas. It shall be unlawful for any person to violate the terms of any permit issued under the provisions of this section.

SEC. 2. Section 4181.1 is added to the Fish and Game Code, to read:

4181.1. (a) Any bear or wild pig that is encountered while in the act of inflicting injury to, molesting, or killing, livestock may be taken immediately by the owner of the livestock or the owner's employee if the taking is reported no later than the next working day to the department and the carcass is made available to the department.

(b) The department shall make a record of any reports made pursuant to subdivision (a) and may, by an employee of the department, investigate the taking or cause the taking to be investigated. Upon completion of the investigation, the investigator may, upon a finding that the requirements of this section have been met with respect to the particular bear or wild pig taken under subdivision (a), issue a permit to the person confirming that the

requirements of this section have been met and may include in the permit an authorization for the person to retain and make use of the carcass.

(c) Notwithstanding Section 4763, any part of any bear lawfully possessed pursuant to this section is subject to Section 4758.

(d) Nothing in this section prohibits federal, state, or county trappers from killing or trapping bears when the bears are killing or molesting livestock, but no iron- or steel-jawed or any type of metal-jawed trap shall be used to take any such bear, and no person, including employees of the state, federal, or county government shall take bear with iron- or steel-jawed or any type of metal-jawed traps.

SEC. 3. Section 4183 of the Fish and Game Code is repealed.

SEC. 4. Section 4190 is added to the Fish and Game Code, to read:

4190. The department shall tag, brand, or otherwise identify in a persistent and distinctive manner large depredatory mammal relocated by, or with the approval of, the department for game management purposes.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1366

An act to amend Section 1373 of the Health and Safety Code, and to amend Sections 10125, 10127, and 11512.5 of the Insurance Code, relating to health insurance.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 1373 of the Health and Safety Code is amended to read:

1373. (a) A plan contract may not provide an exception for other coverage where the other coverage is entitlement to Medi-Cal benefits under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code.

Each plan contract shall be interpreted not to provide an exception for the Medi-Cal benefits.

A plan contract may not provide that the benefits payable thereunder are subject to reduction if the individual insured has

entitlement to the Medi-Cal benefits.

(b) A plan contract which provides coverage, whether by specific benefit or by the effect of general wording, for sterilization operations or procedures shall not impose any disclaimer, restriction on, or limitation of, coverage relative to the covered individual's reason for sterilization.

As used in this section, "sterilization operations or procedures" shall have the same meaning as that specified in Section 10120 of the Insurance Code.

(c) Every plan contract which provides coverage to family members or dependents of the subscriber or enrollee shall grant immediate accident and sickness coverage, from and after the moment of birth, to each newborn infant, and to each minor adopted child from and after the moment the child is placed in the custody of the adoptive parents for adoption, of any subscriber or enrollee covered. No such plan may be entered into or amended if it contains any disclaimer, waiver, or other limitation of coverage relative to the coverage or insurability of newborn infants of a subscriber or enrollee covered from and after the moment of birth or of minor adopted children from and after the moment the child is placed in the custody of the adoptive parents for adoption.

(d) Every plan contract which provides that coverage of a dependent child of a subscriber shall terminate upon attainment of the limiting age for dependent children specified in the plan, shall also provide in substance that attainment of the limiting age shall not operate to terminate the coverage of the child while the child is and continues to be both (1) incapable of self-sustaining employment by reason of mental retardation or physical handicap and (2) chiefly dependent upon the subscriber for support and maintenance, provided proof of the incapacity and dependency is furnished to the plan by the member within 31 days of the request for such information by the plan or group plan contract holder and subsequently as may be required by the plan or group plan contract holder, but not more frequently than annually after the two-year period following the child's attainment of the limiting age.

(e) A plan contract which provides coverage, whether by specific benefit or by the effect of general wording, for both an employee and one or more covered persons dependent upon the employee and provides for an extension of the coverage for any period following a termination of employment of the employee shall also provide that this extension of coverage shall apply to dependents upon the same terms and conditions precedent as applied to the covered employee, for the same period of time, subject to payment of premiums, if any, as required by the terms of the policy and subject to any applicable collective bargaining agreement.

(f) A group contract shall not discriminate against handicapped persons or against groups containing handicapped persons. Nothing in this subdivision shall preclude reasonable provisions in a plan contract against liability for services or reimbursement of the

handicap condition or conditions relating thereto, as may be allowed by rules of the commissioner.

(g) Every group contract shall set forth the terms and conditions under which subscribers and enrollees may remain in the plan in the event the group ceases to exist, the group contract is terminated or an individual subscriber leaves the group, or the enrollees' eligibility status changes.

(h) (1) A health care service plan or specialized health care service plan may provide for coverage of, or for payment for, professional mental health services, or vision care services, or for the exclusion of these services. A health care service plan that offers outpatient mental health services but does not cover these services in all of its group contracts shall communicate to prospective group contract holders as to the availability of outpatient coverage for the treatment of mental or nervous disorders.

(2) No plan shall prohibit the member from selecting any psychologist who is licensed pursuant to the Psychology Licensing Law or, any optometrist who is the holder of a certificate issued pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code or, upon referral by a physician and surgeon licensed pursuant to the Medical Practice Act, (i) any marriage, family and child counselor who is the holder of a license under Section 4980.50 of the Business and Professions Code, or (ii) any licensed clinical social worker who is the holder of a license under Section 9040 of the Business and Professions Code, or (iii) any registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code who possesses a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, at such time as the State Board of Registered Nurses produces and maintains a list of those psychiatric-mental health nurses who possess a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, to perform the particular services covered under the terms of the plan, the certificate holder being expressly authorized by law to perform these services.

(3) Nothing in this section shall be construed to allow any certificate holder or licensee enumerated in this section to perform professional mental health services beyond his or her field or fields of competence as established by his or her education, training and experience.

(4) For the purposes of this section, "marriage, family and child counselor" shall mean a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis, and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions which is equivalent to the instruction required for licensure on January 1, 1981.

(5) Nothing in this section shall be construed to allow a member to select and obtain mental health or psychological or vision care services from a certificate or license holder who is not directly affiliated with or under contract to the health care service plan or specialized health care service plan to which the member belongs. All health care service plans and individual practice associations which offer mental health benefits shall make reasonable efforts to make available to their members the services of licensed psychologists. However, a failure of a plan or association to comply with the requirements of the preceding sentence shall not constitute a misdemeanor.

(6) As used in this subdivision, "individual practice association" means an entity as defined in subsection (5) of Section 1307 of the federal Public Health Service Act (subs. (5), Sec. 300e-1, 42 U.S.C.).

(7) Health care service plan coverage for professional mental health services may include community residential treatment services which are alternatives to inpatient care and which are directly affiliated with the plan or to which enrollees are referred by providers affiliated with the plan.

(i) If the plan utilizes arbitration to settle disputes, the plan contracts shall set forth the type of disputes subject to arbitration, the process to be utilized, and how it is to be initiated.

(j) A plan contract which provides benefits that accrue after a certain time of confinement in a health care facility shall specify what constitutes a day of confinement or the number of consecutive hours of confinement which are requisite to the commencement of benefits.

SEC. 1.5. Section 1373 of the Health and Safety Code is amended to read:

1373. (a) A plan contract may not provide an exception for other coverage where the other coverage is entitlement to Medi-Cal benefits under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code.

Each plan contract shall be interpreted not to provide an exception for the Medi-Cal benefits.

A plan contract may not provide that the benefits payable thereunder are subject to reduction if the individual insured has entitlement to the Medi-Cal benefits.

(b) A plan contract which provides coverage, whether by specific benefit or by the effect of general wording, for sterilization operations or procedures shall not impose any disclaimer, restriction on, or limitation of, coverage relative to the covered individual's reason for sterilization.

As used in this section, "sterilization operations or procedures" shall have the same meaning as that specified in Section 10120 of the Insurance Code.

(c) Every plan contract which provides coverage to family members or dependents of the subscriber or enrollee shall grant

immediate accident and sickness coverage, from and after the moment of birth, to each newborn infant, and to each minor adopted child from and after the moment the child is placed in the custody of the adoptive parents for adoption, of any subscriber or enrollee covered. No such plan may be entered into or amended if it contains any disclaimer, waiver, or other limitation of coverage relative to the coverage or insurability of newborn infants of a subscriber or enrollee covered from and after the moment of birth or of minor adopted children from and after the moment the child is placed in the custody of the adoptive parents for adoption.

(d) Every plan contract which provides that coverage of a dependent child of a subscriber shall terminate upon attainment of the limiting age for dependent children specified in the plan, shall also provide in substance that attainment of the limiting age shall not operate to terminate the coverage of the child while the child is and continues to be both (1) incapable of self-sustaining employment by reason of mental retardation or physical handicap and (2) chiefly dependent upon the subscriber for support and maintenance, provided proof of the incapacity and dependency is furnished to the plan by the member within 31 days of the request for such information by the plan or group plan contract holder and subsequently as may be required by the plan or group plan contract holder, but not more frequently than annually after the two-year period following the child's attainment of the limiting age.

(e) A plan contract which provides coverage, whether by specific benefit or by the effect of general wording, for both an employee and one or more covered persons dependent upon the employee and provides for an extension of the coverage for any period following a termination of employment of the employee shall also provide that the extension of coverage shall apply to dependents upon the same terms and conditions precedent as applied to the covered employee, for the same period of time, subject to payment of premiums, if any, as required by the terms of the policy and subject to any applicable collective bargaining agreement.

(f) A group contract shall not discriminate against handicapped persons or against groups containing handicapped persons. Nothing in this subdivision shall preclude reasonable provisions in a plan contract against liability for services or reimbursement of the handicap condition or conditions relating thereto, as may be allowed by rules of the commissioner.

(g) Every group contract shall set forth the terms and conditions under which subscribers and enrollees may remain in the plan in the event the group ceases to exist, the group contract is terminated or an individual subscriber leaves the group, or the enrollees' eligibility status changes.

(1) A health care service plan or specialized health care service plan may provide for coverage of, or for payment for, professional mental health services, or vision care services, or for the exclusion of these services. If the terms and conditions include coverage for

services provided in a general acute care hospital or an acute psychiatric hospital as defined in Section 1250, the coverage shall extend to care provided by a psychiatric health facility as defined in Section 1250.2 operating pursuant to licensure by the Department of Health Services or pursuant to a waiver of licensure by the Department of Mental Health provided however, that if the contract restricts or modifies the choice of providers, such restrictions or modifications shall apply. A health care service plan that offers outpatient mental health services but does not cover these services in all of its group contracts shall communicate to prospective group contract holders as to the availability of outpatient coverage for the treatment of mental or nervous disorders.

(2) No plan shall prohibit the member from selecting any psychologist who is licensed pursuant to the Psychology Licensing Law or, any optometrist who is the holder of a certificate issued pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code or, upon referral by a physician and surgeon licensed pursuant to the Medical Practice Act, (A) any marriage, family and child counselor who is the holder of a license under Section 4980.50 of the Business and Professions Code, or (B) any licensed clinical social worker who is the holder of a license under Section 9040 of the Business and Professions Code, or (c) any registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code who possesses a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, at such time as the State Board of Registered Nurses produces and maintains a list of those psychiatric-mental health nurses who possess a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, to perform the particular services covered under the terms of the plan, the certificate holder being expressly authorized by law to perform these services.

(3) Nothing in this section shall be construed to allow any certificate holder or licensee enumerated in this section to perform professional mental health services beyond his or her field or fields of competence as established by his or her education, training and experience.

(4) For the purposes of this section, "marriage, family and child counselor" shall mean a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis, and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions which is equivalent to the instruction required for licensure on January 1, 1981.

(5) Nothing in this section shall be construed to allow a member to select and obtain mental health or psychological or vision care services from a certificate or license holder who is not directly

affiliated with or under contract to the health care service plan or specialized health care service plan to which the member belongs. All health care service plans and individual practice associations which offer mental health benefits shall make reasonable efforts to make available to their members the services of licensed psychologists. However, a failure of a plan or association to comply with the requirements of the preceding sentence shall not constitute a misdemeanor.

(6) As used in this subdivision, "individual practice association" means an entity as defined in subsection (5) of Section 1307 of the federal Public Health Service Act (subs. (5), Sec. 300e-1, 42 U.S.C.).

(7) Health care service plan coverage for professional mental health services may include community residential treatment services which are alternatives to inpatient care and which are directly affiliated with the plan or to which enrollees are referred by providers affiliated with the plan.

(i) If the plan utilizes arbitration to settle disputes, the plan contracts shall set forth the type of disputes subject to arbitration, the process to be utilized, and how it is to be initiated.

(j) A plan contract which provides benefits that accrue after a certain time of confinement in a health care facility shall specify what constitutes a day of confinement or the number of consecutive hours of confinement which are requisite to the commencement of benefits.

SEC. 2. Section 10125 of the Insurance Code is amended to read:

10125. On and after the effective date of this section, every insurer issuing group disability insurance which covers hospital, medical, or surgical expenses shall offer coverage for expenses incurred as a result of mental or nervous disorders, under such terms and conditions as may be agreed upon between the group policyholder and the insurer. Every insurer shall communicate to prospective group policyholders as to the availability of outpatient coverage for the treatment of mental or nervous disorders. Every insurer shall communicate the availability of such coverage to all group policyholders and to all prospective group policyholders with whom they are negotiating. This coverage may include community residential treatment services, as described in Section 5458 of the Welfare and Institutions Code, which are alternatives to institutional care.

SEC. 2.5. Section 10125 of the Insurance Code is amended to read:

10125. On and after the effective date of this section, every insurer issuing group disability insurance which covers hospital, medical, or surgical expenses shall offer coverage for expenses incurred as a result of mental or nervous disorders, under such terms and conditions as may be agreed upon between the group policyholder and the insurer. If the terms and conditions include coverage for services provided in a general acute care hospital or an acute psychiatric hospital as defined in Section 1250 of the Health

and Safety Code, the coverage shall extend to care provided by a psychiatric health facility, as defined by Section 1250.2 of the Health and Safety Code, operating pursuant to licensure by the Department of Health Services or pursuant to a waiver of licensure by the Department of Mental Health; provided however, that if the policy restricts or modifies the choice of providers, such restrictions or modifications shall apply. Every insurer shall communicate the availability of such coverage to all group policyholders and to all prospective group policyholders with whom they are negotiating. This coverage may include community residential treatment services, as described in Section 5458 of the Welfare and Institutions Code, which are alternatives to institutional care.

SEC. 3. Section 10127 of the Insurance Code is amended to read:

10127. On and after the effective date of this section, every self-insured employee welfare benefit plan which provides coverage for hospital, medical, or surgical expenses shall offer coverage for expenses incurred as a result of mental or nervous disorders, under such terms and conditions as may be agreed upon between the self-insured welfare benefit plan and the member. Every plan shall communicate to prospective members as to the availability of outpatient coverage for the treatment of mental or nervous disorders. Every self-insured welfare benefit plan shall communicate the availability of such coverage to all members and prospective members. This coverage may include community residential treatment services, as described in Section 5458 of the Welfare and Institutions Code, which are alternatives to institutional care.

SEC. 3.5. Section 10127 of the Insurance Code is amended to read:

10127. On and after the effective date of this section, every self-insured employee welfare benefit plan which provides coverage for hospital, medical, or surgical expenses shall offer coverage for expenses incurred as a result of mental or nervous disorders, under such terms and conditions as may be agreed upon between the self-insured welfare benefit plan and the member. If the terms and conditions include coverage for services provided in a general acute care hospital or an acute psychiatric hospital as defined in Section 1250 of the Health and Safety Code, the coverage shall extent to care provided by a psychiatric health facility as defined by Section 1250.2 of the Health and Safety Code operating pursuant to licensure by the Department of Health Services or pursuant to a waiver of licensure by the Department of Mental Health; provided however, that if the policy restricts or modified the choice of providers, such restrictions or modifications shall apply. Every plan shall communicate to prospective members as to the availability of outpatient coverage for the treatment of mental or nervous disorders. Every self-insured welfare benefit plan shall communicate the availability of such coverage to all members and prospective

SEC. 4. Section 11512.5 of the Insurance Code is amended to read:

11512.5. On and after the effective date of this section, every nonprofit hospital service plan, including those plans issuing group hospital service contracts, which does not provide or arrange direct health care services for its members, shall offer coverage for expenses incurred as a result of mental or nervous disorders, under such terms and conditions as may be agreed upon between the plan and the group contract holder. Every nonprofit hospital service plan, including those issuing group hospital service contracts, shall communicate the availability of such coverage to all group contract holders, and to all prospective group contract holders with whom they are negotiating. Every plan shall communicate to prospective group contract holders as to the availability of outpatient coverage for the treatment of mental or nervous disorders.

This coverage may include community residential treatment services, as described in Section 5458 of the Welfare and Institutions Code, which are alternatives to institutional care.

SEC. 4.5. Section 11512.5 of the Insurance Code is amended to read:

11512.5. On and after the effective date of this section, every nonprofit hospital service plan, including those plans issuing group hospital service contracts, which does not provide or arrange direct health care services for its members, shall offer coverage for expenses incurred as a result of mental or nervous disorders, under such terms and conditions as may be agreed upon between the plan and the group contract holder. If the terms and conditions include coverage for services provided in a general acute care hospital or an acute psychiatric hospital as defined in Section 1250 of the Health and Safety Code, the coverage shall extend to care provided by a psychiatric health facility as defined in Section 1250.2 of the Health and Safety Code operating pursuant to licensure by the Department of Health Services or pursuant to a waiver of licensure by the Department of Mental Health; provided however, that if the contract restricts or modifies the choice of providers, such restrictions or modifications shall apply. Every nonprofit hospital service plan, including those issuing group hospital service contracts, shall communicate the availability of such coverage to all group contract holders, and to all prospective group contract holders with whom they are negotiating. Every plan shall communicate to prospective group contract holders as to the availability of outpatient coverage for the treatment of mental or nervous disorders. This coverage may include community residential treatment services, as described in Section 5458 of the Welfare and Institutions Code, which are alternatives to institutional care.

SEC. 5. Section 1.5 of this bill incorporates amendments to Section 1373 of the Health and Safety Code proposed by both this bill and SB 2160. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 1373 of the Health and Safety Code, and (3) this bill is enacted after SB 2160, in which case Section 1 of this bill shall not

become operative.

SEC. 6. Section 2.5 of this bill incorporates amendments to Section 10125 of the Insurance Code proposed by both this bill and SB 2160. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 10125 of the Insurance Code, and (3) this bill is enacted after SB 2160, in which case Section 2 of this bill shall not become operative.

SEC. 7. Section 3.5 of this bill incorporates amendments to Section 10127 of the Insurance Code proposed by both this bill and SB 2160. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 10127 of the Insurance Code, and (3) this bill is enacted after SB 2160, in which case Section 3 of this bill shall not become operative.

SEC. 8. Section 4.5 of this bill incorporates amendments to Section 11512.5 of the Insurance Code proposed by both this bill and SB 2160. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 11512.5 of the Insurance Code, and (3) this bill is enacted after SB 2160, in which case Section 4 of this bill shall not become operative.

CHAPTER 1367

An act to amend Section 1373 of the Health and Safety Code, and to amend Sections 10125, 10127, and 11512.5 of the Insurance Code, relating to insurance.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 1373 of the Health and Safety Code is amended to read:

1373. (a) A plan contract may not provide an exception for other coverage where such other coverage is entitlement to Medi-Cal benefits under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code.

Each plan contract shall be interpreted not to provide an exception for such Medi-Cal benefits.

A plan contract may not provide that the benefits payable thereunder are subject to reduction if the individual insured has entitlement to such Medi-Cal benefits.

(b) A plan contract which provides coverage, whether by specific benefit or by the effect of general wording, for sterilization

operations or procedures shall not impose any disclaimer, restriction on, or limitation of, coverage relative to the covered individual's reason for sterilization.

As used in this section, "sterilization operations or procedures" shall have the same meaning as that specified in Section 10120 of the Insurance Code.

(c) Every plan contract which provides coverage to family members or dependents of the subscriber or enrollee shall grant immediate accident and sickness coverage, from and after the moment of birth, to each newborn infant, and to each minor adopted child from and after the moment the child is placed in the custody of the adoptive parents for adoption, of any subscriber or enrollee covered. No such plan may be entered into or amended if it contains any disclaimer, waiver, or other limitation of coverage relative to the coverage or insurability of newborn infants of a subscriber or enrollee covered from and after the moment of birth or of minor adopted children from and after the moment the child is placed in the custody of the adoptive parents for adoption.

(d) Every plan contract which provides that coverage of a dependent child of a subscriber shall terminate upon attainment of the limiting age for dependent children specified in the plan, shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of such child while the child is and continues to be both (1) incapable of self-sustaining employment by reason of mental retardation or physical handicap and (2) chiefly dependent upon the subscriber for support and maintenance, provided proof of such incapacity and dependency is furnished to the plan by the member within 31 days of the request for such information by the plan or group plan contract holder and subsequently as may be required by the plan or group plan contract holder, but not more frequently than annually after the two-year period following the child's attainment of the limiting age.

(e) A plan contract which provides coverage, whether by specific benefit or by the effect of general wording, for both an employee and one or more covered persons dependent upon such employee and provides for an extension of such coverage for any period following a termination of employment of the employee shall also provide that such extension of coverage shall apply to dependents upon the same terms and conditions precedent as applied to the covered employee, for the same period of time, subject to payment of premiums, if any, as required by the terms of the policy and subject to any applicable collective-bargaining agreement.

(f) A group contract shall not discriminate against handicapped persons or against groups containing handicapped persons. Nothing in this subdivision shall preclude reasonable provisions in a plan contract against liability for services or reimbursement of the handicap condition or conditions relating thereto, as may be allowed by rules of the commissioner.

(g) Every group contract shall set forth the terms and conditions

under which subscribers and enrollees may remain in the plan in the event the group ceases to exist, the group contract is terminated or an individual subscriber leaves the group, or the enrollees' eligibility status changes.

(h) A health care service plan or specialized health care service plan may provide for coverage of, or for payment for, professional mental health services, or vision care services, or for the exclusion of such services. If the terms and conditions include coverage for services provided in a general acute care hospital or an acute psychiatric hospital as defined in Section 1250 and do not restrict or modify the choice of providers, the coverage shall extend to care provided by a psychiatric health facility as defined in Section 1250.2 operating pursuant to licensure by the State Department of Health Services or pursuant to a waiver of licensure by the State Department of Mental Health. A health care service plan that offers outpatient mental health services but does not cover such services in all of its group contracts shall communicate to prospective group contract holders as to the availability of outpatient coverage for the treatment of mental or nervous disorders. No plan shall prohibit the member from selecting any psychologist who is licensed pursuant to the Psychology Licensing Law or, any optometrist who is the holder of a certificate issued pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code or, upon referral by a physician and surgeon licensed pursuant to the Medical Practice Act, (1) any marriage, family and child counselor who is the holder of a license under Section 4980.50 of the Business and Professions Code, or (2) any licensed clinical social worker who is the holder of a license under Section 9040 of the Business and Professions Code, or (3) any registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code who possesses a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, at such time as the State Board of Registered Nurses produces and maintains a list of those psychiatric-mental health nurses who possess a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, to perform the particular services covered under the terms of the plan, such certificate holder being expressly authorized by law to perform such services. Nothing in this section shall be construed to allow any certificate holder or licensee enumerated in this section to perform professional mental health services beyond his or her field or fields of competence as established by his or her education, training and experience. For the purposes of this section, "marriage, family and child counselor" means a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis, and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions which is equivalent to the instruction required for

licensure on January 1, 1981. Nothing in this section shall be construed to allow a member to select and obtain mental health or psychological or vision care services from a certificate or license holder who is not directly affiliated with or under contract to the health care service plan or specialized health care service plan to which the member belongs. All health care service plans and individual practice associations which offer mental health benefits shall make reasonable efforts to make available to their members the services of licensed psychologists. However, a failure of a plan or association to comply with the requirements of the preceding sentence shall not constitute a misdemeanor.

As used in this subdivision, "individual practice association" means an entity as defined in subsection (5) of Section 1307 of the federal Public Health Service Act (subs. (5), Sec. 300e-1, 42 U.S.C.).

(i) If the plan utilizes arbitration to settle disputes, the plan contracts shall set forth the type of disputes subject to arbitration, the process to be utilized, and how it is to be initiated.

(j) A plan contract which provides benefits that accrue after a certain time of confinement in a health care facility shall specify what constitutes a day of confinement or the number of consecutive hours of confinement which are requisite to the commencement of benefits.

SEC. 1.5. Section 1373 of the Health and Safety Code is amended to read:

1373. (a) A plan contract may not provide an exception for other coverage where the other coverage is entitlement to Medi-Cal benefits under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code.

Each plan contract shall be interpreted not to provide an exception for the Medi-Cal benefits.

A plan contract may not provide that the benefits payable thereunder are subject to reduction if the individual insured has entitlement to the Medi-Cal benefits.

(b) A plan contract which provides coverage, whether by specific benefit or by the effect of general wording, for sterilization operations or procedures shall not impose any disclaimer, restriction on, or limitation of, coverage relative to the covered individual's reason for sterilization.

As used in this section, "sterilization operations or procedures" shall have the same meaning as that specified in Section 10120 of the Insurance Code.

(c) Every plan contract which provides coverage to family members or dependents of the subscriber or enrollee shall grant immediate accident and sickness coverage, from and after the moment of birth, to each newborn infant, and to each minor adopted child from and after the moment the child is placed in the custody of the adoptive parents for adoption, of any subscriber or enrollee covered. No such plan may be entered into or amended if it contains

any disclaimer, waiver, or other limitation of coverage relative to the coverage or insurability of newborn infants of a subscriber or enrollee covered from and after the moment of birth or of minor adopted children from and after the moment the child is placed in the custody of the adoptive parents for adoption.

(d) Every plan contract which provides that coverage of a dependent child of a subscriber shall terminate upon attainment of the limiting age for dependent children specified in the plan, shall also provide in substance that attainment of the limiting age shall not operate to terminate the coverage of the child while the child is and continues to be both (1) incapable of self-sustaining employment by reason of mental retardation or physical handicap and (2) chiefly dependent upon the subscriber for support and maintenance, provided proof of the incapacity and dependency is furnished to the plan by the member within 31 days of the request for such information by the plan or group plan contract holder and subsequently as may be required by the plan or group plan contract holder, but not more frequently than annually after the two-year period following the child's attainment of the limiting age.

(e) A plan contract which provides coverage, whether by specific benefit or by the effect of general wording, for both an employee and one or more covered persons dependent upon the employee and provides for an extension of the coverage for any period following a termination of employment of the employee shall also provide that this extension of coverage shall apply to dependents upon the same terms and conditions precedent as applied to the covered employee, for the same period of time, subject to payment of premiums, if any, as required by the terms of the policy and subject to any applicable collective-bargaining agreement.

(f) A group contract shall not discriminate against handicapped persons or against groups containing handicapped persons. Nothing in this subdivision shall preclude reasonable provisions in a plan contract against liability for services or reimbursement of the handicap condition or conditions relating thereto, as may be allowed by rules of the commissioner.

(g) Every group contract shall set forth the terms and conditions under which subscribers and enrollees may remain in the plan in the event the group ceases to exist, the group contract is terminated or an individual subscriber leaves the group, or the enrollees' eligibility status changes.

(h) (1) A health care service plan or specialized health care service plan may provide for coverage of, or for payment for, professional mental health services, or vision care services, or for the exclusion of such services. If the terms and conditions include coverage for services provided in a general acute care hospital or an acute psychiatric hospital as defined in Section 1250 and do not restrict or modify the choice of providers, the coverage shall extend to care provided by a psychiatric health facility as defined in Section 1250.2 operating pursuant to licensure by the State Department of

Health Services or pursuant to a waiver of licensure by the State Department of Mental Health. A health care service plan that offers outpatient mental health services but does not cover such services in all of its group contracts shall communicate to prospective group contract holders as to the availability of outpatient coverage for the treatment of mental or nervous disorders.

(2) No plan shall prohibit the member from selecting any psychologist who is licensed pursuant to the Psychology Licensing Law or, any optometrist who is the holder of a certificate issued pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code or, upon referral by a physician and surgeon licensed pursuant to the Medical Practice Act, (i) any marriage, family, and child counselor who is the holder of a license under Section 17805 of the Business and Professions Code, or (ii) any licensed clinical social worker who is the holder of a license under Section 9040 of the Business and Professions Code, or (iii) any registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code who possesses a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, at such time as the State Board of Registered Nurses produces and maintains a list of those psychiatric-mental health nurses who possess a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, to perform the particular services covered under the terms of the plan, the certificate holder being expressly authorized by law to perform these services.

(3) Nothing in this section shall be construed to allow any certificate holder or licensee enumerated in this section to perform professional mental health services beyond his or her field or fields of competence as established by his or her education, training and experience.

(4) For the purposes of this section, "marriage, family and child counselor" means a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis, and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions which is equivalent to the instruction required for licensure on January 1, 1981.

(5) Nothing in this section shall be construed to allow a member to select and obtain mental health or psychological or vision care services from a certificate or license holder who is not directly affiliated with or under contract to the health care service plan or specialized health care service plan to which the member belongs. All health care service plans and individual practice associations which offer mental health benefits shall make reasonable efforts to make available to their members the services of licensed psychologists. However, a failure of a plan or association to comply with the requirements of the preceding sentence shall not constitute

a misdemeanor.

(6) As used in this subdivision, "individual practice association" means an entity as defined in subsection (5) of Section 1307 of the federal Public Health Service Act (subs. (5), Sec. 300e-1, 42 U.S.C.).

(7) Health care service plan coverage for professional mental health services may include community residential treatment services which are alternatives to inpatient care and which are directly affiliated with the plan or to which enrollees are referred by providers affiliated with the plan.

(i) If the plan utilizes arbitration to settle disputes, the plan contracts shall set forth the type of disputes subject to arbitration, the process to be utilized, and how it is to be initiated.

(j) A plan contract which provides benefits that accrue after a certain time of confinement in a health care facility shall specify what constitutes a day of confinement or the number of consecutive hours of confinement which are requisite to the commencement of benefits.

SEC. 2. Section 10125 of the Insurance Code is amended to read:

10125. On and after the effective date of this section, every insurer issuing group disability insurance which covers hospital, medical, or surgical expenses shall offer coverage for expenses incurred as a result of mental or nervous disorders, under such terms and conditions as may be agreed upon between the group policyholder and the insurer. If the terms and conditions include coverage for services provided in a general acute care hospital or an acute psychiatric hospital, as defined in Section 1250 of the Health and Safety Code, and do not restrict or modify the choice of providers, the coverage shall extend to care provided by a psychiatric health facility, as defined by Section 1250.2 of the Health and Safety Code, operating pursuant to licensure by the State Department of Health Services or pursuant to a waiver of licensure by the State Department of Mental Health. Every insurer shall communicate to prospective group policyholders as to the availability of outpatient coverage for the treatment of mental or nervous disorders. Every insurer shall communicate the availability of such coverage to all group policyholders and to all prospective group policyholders with whom they are negotiating.

SEC. 2.5. Section 10125 of the Insurance Code is amended to read:

10125. On and after the effective date of this section, every insurer issuing group disability insurance which covers hospital, medical, or surgical expenses shall offer coverage for expenses incurred as a result of mental or nervous disorders, under such terms and conditions as may be agreed upon between the group policyholder and the insurer. If the terms and conditions include coverage for services provided in a general acute care hospital or an acute psychiatric hospital, as defined in Section 1250 of the Health and Safety Code, and do not restrict or modify the choice of providers, the coverage shall extend to care provided by a

psychiatric health facility, as defined by Section 1250.2 of the Health and Safety Code, operating pursuant to licensure by the State Department of Health Services or pursuant to a waiver of licensure by the State Department of Mental Health. Every insurer shall communicate to prospective group policyholders as to the availability of outpatient coverage for the treatment of mental or nervous disorders. Every insurer shall communicate the availability of such coverage to all group policyholders and to all prospective group policyholders with whom they are negotiating. This coverage may include community residential treatment services, as described in Section 5458 of the Welfare and Institutions Code, which are alternatives to institutional care.

SEC. 3. Section 10127 of the Insurance Code is amended to read:

10127. On and after the effective date of this section, every self-insured employee welfare benefit plan which provides coverage for hospital, medical, or surgical expenses shall offer coverage for expenses incurred as a result of mental or nervous disorders, under such terms and conditions as may be agreed upon between the self-insured welfare benefit plan and the member. If the terms and conditions include coverage for services provided in a general acute care hospital or an acute psychiatric hospital, as defined in Section 1250 of the Health and Safety Code, and do not restrict or modify the choice of providers, the coverage shall extend to care provided by a psychiatric health facility, as defined by Section 1250.2 of the Health and Safety Code, operating pursuant to licensure by the State Department of Health Services or pursuant to a waiver of licensure by the State Department of Mental Health. Every plan shall communicate to prospective members as to the availability of outpatient coverage for the treatment of mental or nervous disorders. Every self-insured welfare benefit plan shall communicate the availability of such coverage to all members and prospective members.

SEC. 3.5. Section 10127 of the Insurance Code is amended to read:

10127. On and after the effective date of this section, every self-insured employee welfare benefit plan which provides coverage for hospital, medical, or surgical expenses shall offer coverage for expenses incurred as a result of mental or nervous disorders, under such terms and conditions as may be agreed upon between the self-insured welfare benefit plan and the member. If the terms and conditions include coverage for services provided in a general acute care hospital, or an acute psychiatric hospital as defined in Section 1250 of the Health and Safety Code, and do not restrict or modify the choice of providers, the coverage shall extend to care provided by a psychiatric health facility, as defined by Section 1250.2 of the Health and Safety Code, operating pursuant to licensure by the State Department of Health Services or pursuant to a waiver of licensure by the State Department of Mental Health. Every plan shall communicate to prospective members as to the availability of

outpatient coverage for the treatment of mental or nervous disorders. Every self-insured welfare benefit plan shall communicate the availability of such coverage to all members and prospective members. This coverage may include community residential treatment services, as described in Section 5458 of the Welfare and Institutions Code, which are alternatives to institutional care.

SEC. 4. Section 11512.5 of the Insurance Code is amended to read:

11512.5. On and after the effective date of this section, every nonprofit hospital service plan, including those plans issuing group hospital service contracts, which does not provide or arrange direct health care services for its members, shall offer coverage for expenses incurred as a result of mental or nervous disorders, under such terms and conditions as may be agreed upon between the plan and the group contract holder. If the terms and conditions include coverage for services provided in a general acute care hospital or an acute psychiatric hospital, as defined in Section 1250 of the Health and Safety Code, and do not restrict or modify the choice of providers, the coverage shall extend to care provided by a psychiatric health facility, as defined in Section 1250.2 of the Health and Safety Code, operating pursuant to licensure by the State Department of Health Services or pursuant to a waiver of licensure by the State Department of Mental Health. Every nonprofit hospital service plan, including those issuing group hospital service contracts, shall communicate the availability of such coverage to all group contract holders, and to all prospective group contract holders with whom they are negotiating. Every plan shall communicate to prospective group contract holders as to the availability of outpatient coverage for the treatment of mental or nervous disorders.

SEC. 4.5. Section 11512.5 of the Insurance Code is amended to read:

11512.5. On and after the effective date of this section, every nonprofit hospital service plan, including those plans issuing group hospital service contracts, which does not provide or arrange direct health care services for its members, shall offer coverage for expenses incurred as a result of mental or nervous disorders, under such terms and conditions as may be agreed upon between the plan and the group contract holder. If the terms and conditions include coverage for services provided in a general acute care hospital or an acute psychiatric hospital, as defined in Section 1250 of the Health and Safety Code, and do not restrict or modify the choice of providers, the coverage shall extend to care provided by a psychiatric health facility, as defined in Section 1250.2 of the Health and Safety Code, operating pursuant to licensure by the State Department of Health Services or pursuant to a waiver of licensure by the State Department of Mental Health. Every nonprofit hospital service plan, including those issuing group hospital service contracts, shall communicate the availability of such coverage to all group contract holders, and to all prospective group contract holders with

whom they are negotiating. Every plan shall communicate to prospective group contract holders as to the availability of outpatient coverage for the treatment of mental or nervous disorders.

This coverage may include community residential treatment services, as described in Section 5458 of the Welfare and Institutions Code, which are alternatives to institutional care.

SEC. 5. Section 1.5 of this bill incorporates amendments to Section 1373 of the Health and Safety Code proposed by both this bill and AB 3748. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 1373 of the Health and Safety Code, and (3) this bill is enacted after AB 3748, in which case Section 1 of this bill shall not become operative.

SEC. 6. Section 2.5 of this bill incorporates amendments to Section 10125 of the Insurance Code proposed by both this bill and AB 3748. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 10125 of the Insurance Code, and (3) this bill is enacted after AB 3748, in which case Section 2 of this bill shall not become operative.

SEC. 7. Section 3.5 of this bill incorporates amendments to Section 10127 of the Insurance Code proposed by both this bill and AB 3748. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 10127 of the Insurance Code, and (3) this bill is enacted after AB 3748, in which case Section 3 of this bill shall not become operative.

SEC. 8. Section 4.5 of this bill incorporates amendments to Section 11512.5 of the Insurance Code proposed by both this bill and AB 3748. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 11512.5 of the Insurance Code, and (3) this bill is enacted after AB 3748, in which case Section 4 of this bill shall not become operative.

CHAPTER 1368

An act to amend Sections 84200, 84305, 87500, and 90001 of the Government Code, relating to the Political Reform Act.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 84200 of the Government Code is amended to read:

84200. (a) All candidates and committees shall file campaign

statements no later than July 31 and January 31 if they have made or received contributions or made expenditures during the six calendar months before the closing date of such statements; provided, that a candidate who, during the past six calendar months has filed a declaration pursuant to Section 84205, shall not be required to file a statement. All elected officers shall file campaign statements no later than July 31 and January 31; provided that this requirement does not apply to elected officers whose salaries are less than one hundred dollars ($100) a month or to judges, unless such elected officer or judge or his or her controlled committee makes or receives contributions or makes expenditures during the applicable six-month period. Filers specified in subdivision (c) shall not file the campaign statement required by this subdivision for the six-month period in which an election referred to in subdivision (c) is held.

(b) In addition to the campaign statements required by subdivision (a), candidates, elected officers, controlled committees, and any committee formed primarily to support or oppose candidates or measures that has made or received contributions of five hundred dollars ($500) or more or made expenditures of five hundred dollars ($500) or more during the threshold periods specified below, and all other committees which, in an even-numbered year, have made or received contributions of five hundred dollars ($500) or more or made expenditures of five hundred dollars ($500) or more during the threshold periods specified below, or, in an odd-numbered year, have made contributions or independent expenditures of five hundred dollars ($500) or more during the threshold periods specified below shall file campaign statements on the following dates:

(1) No later than March 22, with a five hundred dollar ($500) threshold period of January 1 through March 17.

(2) No later than 12 days before the first Tuesday after the first Monday in June, with a five hundred dollar ($500) threshold period of March 18 through 17 days before the first Tuesday after the first Monday in June.

(3) September 22, with a five hundred dollar ($500) threshold period of July 1 through September 17.

(4) Twelve days before the first Tuesday after the first Monday in November, with a five hundred dollar ($500) threshold period of September 18 through 17 days before the first Tuesday after the first Monday in November.

Notwithstanding the above, elected officers, candidates, and their controlled committees and committees formed primarily to support or oppose candidates or ballot measures are not required to file campaign statements pursuant to this subdivision during any six-month period (from January 1 to June 30 or from July 1 to December 31) in which the candidate's office or the ballot measure is not to be voted on or in the case of an elected officer, when the elected officer is not a candidate for an office being voted on in a six-month period, unless they make contributions or expenditures of

one hundred dollars ($100) or more to any other candidate, controlled committee, or committee formed primarily to support or oppose a candidate or ballot measure.

Filers specified in subdivision (c) shall not file the campaign statements required by this subdivision during the six months in which an election referred to in subdivision (c) is held.

Filers specified in subdivision (d) shall not file the campaign statements required by this subdivision until after the filing date for the campaign statement required by subdivision (d).

(c) If an election is held on a date other than the first Tuesday after the first Monday in June, or the first Tuesday after the first Monday in November, candidates voted on in such elections, their controlled committees and committees formed or existing primarily to support or oppose such candidates or measures voted on in such election shall file campaign statements in connection with the election and shall also file the campaign statements required by subdivisions (a) and (b) for any six-month period in which such an election is not held. Statements filed in connection with such elections shall be filed no later than 40 days before the election, no later than 12 days before the election, and no later than 65 days after the election; provided, however, if a subsequent runoff election is held within 60 days of the first election, the postelection statement shall be filed 65 days after the runoff election. If, however, pursuant to this subdivision, a candidate or committee is required to file campaign statements in connection with a subsequent runoff resulting from that election which is held within 60 days of the first election, such statements shall be filed no later than 40 days prior to the first election (or March 22, if the first election is on the first Tuesday after the first Monday in June, or September 22, if the first election is on the first Tuesday after the first Monday in November) no later than 12 days prior to the first election, no later than 12 days prior to the runoff election and no later than 65 days after the runoff election.

(d) Committees formed or existing primarily to support or oppose the qualification of a measure and a proponent of a state measure who controls a committee formed or existing primarily to support the qualification of a state measure shall file campaign statements not later than 35 days after the deadline for filing petitions or the date of notification that the measure has either qualified or failed to qualify, whichever is earlier. A committee filing pursuant to this subdivision shall not be required to file semiannual campaign statements under subdivision (a) until after the filing date for the campaign statement required by this subdivision.

SEC. 2. Section 84305 of the Government Code is amended to read:

84305. (a) Except as provided in subdivision (b), no candidate or committee shall send a mass mailing unless the name, street address, and city of the candidate or committee are shown on the outside of each piece of mail in the mass mailing and on at least one of the

inserts included within each piece of mail of such mailing in no less than 6-point type. A post office box may be stated in lieu of a street address if the organization's address is a matter of public record with the Secretary of State.

(b) If the sender of the mass mailing is a single candidate or committee, the name, street address, and city of the candidate or committee need only be shown on the outside of each piece of mail.

(c) If the sender of a mass mailing is a controlled committee, the name of the person controlling the committee shall be included in addition to the information required by subdivision (a).

SEC. 3. Section 87500 of the Government Code is amended to read:

87500. Statements of economic interests required by this chapter shall be filed as follows:

(a) Statewide elected officer—one original with the agency which shall make and retain a copy and forward the original to the commission, which shall retain the original and send one copy to the Registrar-Recorder of Los Angeles County and one copy with the Clerk of the City and County of San Francisco. The commission shall be the filing officer.

(b) Candidates for statewide elective office—one original with the person with whom the candidate's declaration of candidacy is filed, who shall forward the original to the commission which shall retain the original and send one copy to the Registrar-Recorder of Los Angeles County and one copy with the Clerk of the City and County of San Francisco. The commission shall be the filing officer.

(c) Members of the Legislature and Board of Equalization—one original with the agency which shall make and retain a copy and forward the original to the commission, which shall retain the original and send one copy to the clerk of the county which contains the largest percentage of registered voters in the election district which the officeholder represents, and one copy to the clerk of the county in which the officeholder resides. No more than one copy of each statement need be filed with the clerk of any one county. The commission shall be the filing officer.

(d) Candidates for the Legislature or the Board of Equalization—one original with the person with whom the candidate's declaration of candidacy is filed, who shall forward the original to the commission which shall retain the original and send one copy to the clerk of the county which contains the largest percentage of registered voters in the election district in which the candidate seeks nomination or election, and one copy to the clerk of the county in which the candidate resides. No more than one copy of each statement need be filed with the clerk of any one county. The commission shall be the filing officer.

(e) Persons holding the office of chief administrative officer and candidates for and persons holding the office of district attorney and member of the board of supervisors—one original with the county clerk who shall make and retain a copy and forward the original to

the commission which shall be the filing officer.

(f) Persons holding the office of city manager or, if there if no city manager, the chief administrative officer, and candidates for and persons holding the office of city councilmember and mayor—one original with the city clerk who shall make and retain a copy and forward the original to the commission which shall be the filing officer.

(g) Members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, planning commissioners, and members of the California Coastal Commission—one original with the agency which shall make and retain a copy and forward the original to the commission which shall be the filing officer.

(h) Members of the Fair Political Practices Commission—one original with the commission which shall make and retain a copy and forward the original to the office of the Attorney General which shall be the filing officer.

(i) Judges of courts of record—one original with the clerk of the court who shall make and retain a copy and forward the original to the commission which shall be the filing officer.

(j) Except as provided for in subdivision (k), heads of agencies, members of boards or commissions not under a department of state government or members of boards or commissions not under the jurisdiction of a local legislative body—one original with the agency, which shall make and retain a copy and forward the original to the code reviewing body which shall be the filing officer. In its discretion, the code reviewing body may provide that the original be filed directly with the code reviewing body and that no copy be retained by the agency.

(k) Heads of local government agencies and members of local government boards or commissions, for which the Fair Political Practices Commission is the code reviewing body, one original to the agency or board or commission which shall be the filing officer, unless at its discretion the Fair Political Practices Commission elects to act as the filing officer. In this instance, the original shall be filed with the agency or board or commission, which shall make and retain a copy and forward the original to the Fair Political Practices Commission.

(*l*) Designated employees of the Legislature—one original with the house of the Legislature by which the designated employee is employed. In its discretion, each house of the Legislature may provide that the originals of statements filed by its designated employees be filed directly with the commission, and that no copies be retained by that house.

(m) Persons not mentioned above—one original with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.

SEC. 4. Section 90001 of the Government Code is amended to read:

90001. Audits and investigations shall be made pursuant to Section 90000 with respect to the reports and statements of:

(a) Each lobbyist required to register or file with the Secretary of State, except that if the commission determines from an audit report that a lobbyist is in substantial compliance with the provisions of the act, the lobbyist thereafter shall be subject to an audit on a random basis with each such lobbyist having a 25-percent chance of being audited.

(b) Each statewide, Supreme Court, court of appeal, or Board of Equalization candidate in a direct primary or general election for whom it is determined that twenty-five thousand dollars ($25,000) or more in contributions have been raised or twenty-five thousand dollars ($25,000) or more in expenditures have been made, whether by the candidate or by a committee or committees controlled by the candidate or whose participation in the direct primary or general election is primarily in support of his or her candidacy. Each statewide candidate whose contributions and expenditures are less than twenty-five thousand dollars ($25,000) shall be subject to an audit on a random basis of 10 percent of the number of such candidates.

(c) Each candidate for the Legislature or superior court judge in a direct primary or general election shall be subject to audit by random selection if it is determined that fifteen thousand dollars ($15,000) or more in contributions have been received or fifteen thousand dollars ($15,000) or more in expenditures have been made, whether by the candidate or by a committee or committees controlled by the candidate or primarily supporting his or her candidacy. Random selection shall be made of 50 percent of the Senate districts, 50 percent of the Assembly districts and 50 percent of the judicial offices contested in an election year.

(d) Each candidate for the Legislature in a special primary or special runoff election for whom it is determined that fifteen thousand dollars ($15,000) or more in contributions have been raised or fifteen thousand dollars ($15,000) or more in expenditures have been made, whether by the candidate or by a committee or committees controlled by the candidate or primarily supporting his or her candidacy.

(e) Each controlled committee of any candidate who is being audited pursuant to subdivision (b), (c), or (d).

(f) Each committee, other than a committee specified in subdivision (c) of Section 82013, primarily supporting or opposing a candidate who is being audited pursuant to subdivision (b), (c) or (d) if it is determined that the committee has expended more than ten thousand dollars ($10,000).

(g) Each committee, other than a committee specified in subdivision (c) of Section 82013, whose participation is primarily in support of or in opposition to a state measure or state measures if it is determined that the committee has expended more than ten thousand dollars ($10,000) on such measure or measures.

(h) Each committee, other than a committee defined in subdivision (c) of Section 82013, a controlled committee or a committee primarily supporting or opposing a state candidate or measure, if it is determined that the committee has raised or expended more than ten thousand dollars ($10,000) supporting or opposing state candidates or state measures during any calendar year, except that if the commission determines from an audit report that a committee is in substantial compliance with the provisions of the act, the committee thereafter shall be subject to an audit on a random basis with each such committee having a 25-percent chance of being audited.

(i) In accordance with subdivisions (a), (b), (c), and (h), the Fair Political Practices Commission shall select by lot the persons or districts to be audited on a random basis. For campaign audits such selection shall be made in public after the last date for filing the first report or statement following the general or special election for which the candidate ran, or following the election at which the measure was adopted or defeated. For lobbyist audits, such selection shall be made in public annually.

SEC. 5. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 1369

An act to amend Section 1120.1a of the Probate Code, relating to trusts.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 1120.1a of the Probate Code is amended to read:

1120.1a. This section shall apply only to trusts which were created by a will executed before July 1, 1977, and not republished thereafter; except that with respect to charitable trusts the provisions of subdivision (f) shall apply regardless of when the trust was created.

(a) Except as provided in subdivision (d), the trustee of such a trust shall give notice on or before July 1, 1983, or within six months after the initial funding of the trust, whichever occurs later, to each beneficiary, including all persons in being who shall or may participate in the corpus or income of the trust, at their last known addresses. Notice shall be given by registered or certified mail or, in the alternative, by first-class mail on the condition that an acknowledgment of receipt of notice is signed by the beneficiary and

returned to the trustee. The notice shall contain the following information:

(1) A statement that as of January 1, 1983, Section 1120 of the Probate Code was amended to remove the necessity for mandatory court supervision of the trust.

(2) A statement that, unless the terms of trust limit or eliminate such authority, Section 1138.1 of the Probate Code gives the beneficiary and remainderman the right to petition a court to determine important matters relating to the administration of the trust, and a copy of the text of Section 1138.1.

(3) A statement that each income beneficiary, as defined in subdivision (1) of Section 730.01 of the Civil Code, is entitled to a statement of the income and principal receipts and disbursements of the trust at least annually and that any other beneficiary or remainderman, upon written request to the trustee, is entitled to such information at least annually.

(4) A statement that the beneficiary or remainderman is entitled to petition a court to settle the accounts and pass upon the acts of the trustee.

(5) The name and location of the superior court in the county in which it is appropriate to file a petition pursuant to Section 1138.1, the name and location of the superior court which had jurisdiction over the administration of the estate pursuant to Section 301, and a statement that it is appropriate to file a petition pursuant to Section 1138.1 with either court.

The trustee shall file with the court which previously had jurisdiction over the administration of the estate, pursuant to Section 301, proof of service of the notice set forth in this subdivision on or before August 1, 1983, or within seven months after the initial funding of the trust, whichever occurs later.

(b) The trustee shall furnish, at least annually, and at termination of the trust, a statement of the income and principal receipts and disbursements that have occurred since the immediately preceding statement to each income beneficiary, as defined in subdivision (1) of Section 730.01 of the Civil Code. The trustee shall also furnish such information to any other beneficiary or remainderman who has made a written request therefor.

(c) Within 90 days after the end of each fiscal year of the trust, the trustee shall furnish the summary of information described in this subdivision to each income beneficiary, as defined in subdivision (1) of Section 730.01 of the Civil Code, and, upon written request, to any other beneficiary or remainderman. The summary shall set forth the following:

(1) The cost of each trust asset.

(2) The present value of each asset as of the end of the current fiscal year of the trust.

(3) The total present value of all assets as of the end of the current fiscal year and the immediately preceding fiscal year of the trust.

(4) The net income for the current fiscal year and the

immediately preceding fiscal year of the trust.

(5) Trustee compensation for the current fiscal year and the immediately preceding fiscal year of the trust.

The summary shall also state that the recipient may petition a court pursuant to Section 1138.1 to obtain a court review, shall set forth a copy of the text of Section 1138.1, and shall give the name and location of the appropriate court or courts in which to file a petition.

(d) Notwithstanding the provisions of subdivision (a) of Section 1120, with respect to a trust where no trustee is a trust company, as defined in Section 107 of the Financial Code, the trustee may remove the trust from the continuing jurisdiction of the superior court only with the approval of the court which has jurisdiction over the administration of the trust pursuant to Section 1120. Unless the trust is so removed, the trustee is not required to comply with the requirements of subdivisions (a), (b), and (c). To obtain such approval the trustee may file at any time and from time to time, in his or her discretion, a verified petition with the clerk setting forth the trust accounts in detail, reporting his or her acts as trustee, and showing the condition of the trust estate. Unless the petition is filed with the court which has jurisdiction over the administration of the trust pursuant to Section 1120, the trustees shall attach to the petition a certified copy of the decree setting forth all of the trust provisions. Thereupon the clerk shall set the petition for hearing by the court. Notice of the hearing shall be given, along with a copy of the petition, at least 30 days before the hearing to all those persons who are entitled to receive the notice required by subdivision (a). At the hearing the court may receive testimony from any interested person and may grant or deny the petition, or grant the petition upon such conditions as the court in its discretion deems proper. In the event the petition is granted, the trustee shall send the notice and file the proof of service required by subdivision (a) within six months and seven months, respectively, from the date the petition is granted. Such notice shall have attached to it a copy of the order of the court granting the petition. If no such petition is granted, the trust shall continue to be administered under subdivisions (b) and (c) of Section 1120 as if the testator had provided in the will that the superior court shall not lose jurisdiction of the estate by final distribution and subdivisions (b) and (c) of this section shall not apply to the trust. Nothing provided in this subdivision shall be interpreted to require any trustee to file a petition authorized by this subdivision.

(e) When a beneficiary or remainderman is a minor, ward or conservatee, any notice, statement, or summary required to be sent to the beneficiary or remainderman by this section shall be sent to the parent, guardian, or conservator, as the case may be, of the beneficiary or remainderman. In addition, if the trustee, at the time the notice required by subdivision (a) is sent, has actual knowledge that a beneficiary or remainderman who is not a minor, ward, or conservatee is being assisted by another individual in the handling

of his or her personal affairs, the trustee shall send the notice required by subdivision (a) to both that individual and the beneficiary or remainderman and, upon the written request of either of them, shall also send the statements and summaries required by subdivisions (b) and (c) to both of them.

(f) Where the trust is a charitable trust subject to Article 7 (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code, and where the trustee is not already filing with the Attorney General a periodic report as required by Section 12586 of the Government Code, upon the vesting of any charitable interest created by the trust the trustee shall thereafter furnish to the Attorney General without the necessity of any written request a copy of a financial statement which reflects, whether singly or in combination with other periodic reports, itemized annual income, expenditures, assets and liabilities of the trust. The Attorney General may designate by regulation copies of other summaries, statements, forms, or returns to be furnished in lieu of those required by this subdivision if such other summaries, statements, forms, or returns are filed by the trustee with a federal or state agency.

This subdivision shall not be construed as requiring the preparation of any financial statement which is not prepared by or for the trustee in the ordinary course of business.

(g) If a trust company, as defined in Section 107 of the Financial Code, is appointed as a successor trustee of a trust which, at the time of the appointment, is subject to the continuing jurisdiction of the superior court because it was not removed pursuant to the provisions of subdivision (d), the successor trustee shall send the notice and proof of service required by subdivision (a) within six months and seven months from the date of appointment, respectively. After a trust is no longer subject to the continuing jurisdiction of the superior court, whether by operation of law or by removal pursuant to subdivision (d), neither a change in trustees nor any other event shall cause the trust to be subject to the provisions of Sections 1120 to 1133, inclusive.

CHAPTER 1370

An act to amend Sections 308 and 827 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 308 of the Welfare and Institutions Code is amended to read:

308. (a) When an officer takes a minor before a probation officer pursuant to this article, he or she shall take immediate steps to notify the minor's parent, guardian, or a responsible relative that the minor is in custody and the place where he or she is being held, except that, upon order of the juvenile court, the parents shall not be notified of the exact whereabouts of the minor. The court shall issue such an order only upon a showing that notifying the parents of the exact whereabouts would endanger the child or that the parents are likely to flee with the child. However, if it is impossible or impracticable to obtain a court order authorizing nondisclosure prior to the detention hearing, and if the officer has a reasonable belief that the minor would be endangered by the disclosure of his or her exact whereabouts, or that the disclosure would cause the custody of the minor to be disturbed, the officer may refuse to disclose the place where the minor is being held. The court shall review any such decision not to disclose the place where the minor is being held at the detention hearing, and shall conduct that review within 24 hours upon the application of a parent, guardian, or a responsible relative.

(b) Immediately after being taken to a place of confinement pursuant to this article and, except where physically impossible, no later than one hour after he or she has been taken into custody, the minor shall be advised that he or she has the right to make at least two telephone calls from the place where he or she is being held, one call completed to his or her parent or guardian, a responsible relative, or his or her employer, and another call completed to an attorney. The calls shall be at public expense, if the calls are completed to telephone numbers within the local calling area, and in the presence of a public officer or employee. Any public officer or employee who willfully deprives a minor taken into custody of his or her right to make these telephone calls is guilty of a misdemeanor.

SEC. 2. Section 827 of the Welfare and Institutions Code is amended to read:

827. (a) Except as provided in Section 828, a petition filed in any juvenile court proceeding, reports of the probation officer, and all other documents filed in any such case or made available to the probation officer in making his or her report, or to the judge, referee, or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer, may be inspected only by court personnel; the minor who is the subject of the proceeding or his or her parents or guardian; the attorneys for those parties; and such other persons as may be designated by court order of the judge of the juvenile court upon filing a petition therefor. The district attorney and child protective agencies, as defined in subdivision (k) of Section 11165 of the Penal Code, also shall be entitled to inspect these documents upon the filing of a declaration under penalty of perjury stating that access to these documents is necessary and relevant in connection with and in the course of a

criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

Any records or reports relating to a matter within the jurisdiction of the juvenile court prepared by or released by the court, a probation department, or the county department of social services, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be disseminated by the receiving agencies to any persons or agencies, other than those persons or agencies authorized to receive documents pursuant to this section. Further, any such records or reports, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be made attachments to any other documents without the prior approval of the presiding judge of the juvenile court, unless they are used in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

(b) Notwithstanding subdivision (a), written notice of the filing of a petition in juvenile court, alleging that a minor of compulsory school age is a person using, selling, or possessing narcotics or a controlled substance, may be provided by the district attorney, within 48 hours, to the superintendent of the school district of attendance, pursuant to Section 48922 of the Education Code. The district attorney need not obtain a court order prior to providing this notice to the superintendent.

SEC. 3. Section 827 of the Welfare and Institutions Code is amended to read:

827. (a) Except as provided in Section 828, a petition filed in any juvenile court proceeding, reports of the probation officer, and all other documents filed in any such case or made available to the probation officer in making his or her report, or to the judge, referee or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer, may be inspected only by court personnel, the minor who is the subject of the proceeding, his or her parents or guardian, the attorneys for those parties, and such other persons as may be designated by court order of the judge of the juvenile court upon filing a petition therefor. The district attorney and child protective agencies, as defined in subdivision (k) of Section 11165 of the Penal Code, also shall be entitled to inspect these documents upon the filing of a declaration under penalty of perjury stating that access to these documents is necessary and relevant in connection with and in the course of a criminal investigation or a proceeding brought to delcare a person a dependent child or ward of the juvenile court.

Any records or reports relating to a matter within the jurisdiction of the juvenile court prepared by or released by the court, a probation department, or the county department of social services, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be disseminated by the receiving agencies to any persons or agencies, other than those

persons or agencies authorized to receive documents pursuant to this section. Further, any such records or reports, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be made attachments to any other documents without the prior approval of the presiding judge of the juvenile court, unless they are used in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

(b) (1) While the Legislature reaffirms its belief that juvenile court records, in general, should be confidential, it is the intent of the Legislature in enacting this subdivision to provide for a limited exception to juvenile court record confidentiality in cases involving serious acts of violence. Further, it is the intent of the Legislature that even in these selected cases dissemination of juvenile court records be as limited as possible consistent with the need to work with a student in an appropriate fashion, and the need to protect potentially vulnerable school staff and other students over whom school staff exercise direct supervision and responsibility.

(2) Notwithstanding subdivision (a), written notice that a minor enrolled in a public school in kindergarten or grades 1 through 12 has been found by a court of competent jurisdiction to have used, sold, or possessed narcotics or a controlled substance or to have committed any crime listed in paragraphs (1) to (15), inclusive, or (17) to (19), inclusive, of subdivision (b) of Section 707 shall be provided by the court, within seven days, to the superintendent of the school district of attendance, which information shall be expeditiously transmitted to any teacher, counselor, or administrator with direct supervisorial or disciplinary responsibility over the minor who the superintendent or his or her designee, after consultation with the principal at the school of attendance, believes needs this information to work with the student in an appropriate fashion, to avoid being needlessly vulnerable or to protect other persons from needless vulnerability. Any information received by a teacher, counselor, or administrator under this subdivision shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher, counselor, or administrator. An intentional violation of the confidentiality provisions of this section is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500).

(3) If a minor is removed from public school as a result of the court's finding described in subdivision (b) the superintendent shall maintain the information in a confidential file and shall defer transmittal of the information received from the court until the minor is returned to public school. If the minor is returned to a school district other than the one from which the minor came, the probation officer shall so notify the superintendent of the last district of attendance who shall transmit the notice received from the court to the superintendent of the new district of attendance.

(c) Each probation report filed with the court concerning a minor

whose record is subject to dissemination pursuant to subdivision (b) shall include on the face sheet the school at which the minor is currently enrolled. The county superintendent shall provide the court with a listing of all of the schools within each school district, within the county, along with the name and mailing address of each district superintendent.

(d) Each notice sent by the court pursuant to subdivision (b) shall be stamped with the instruction: "Destroy This Record 12 Months After The Minor Returns To Public School. Unlawful Dissemination of This Information Is A Misdemeanor." No information transmitted by the superintendent pursuant to subdivision (b) shall be transmitted by the superintendent or by any teacher, counselor, or administrator to any other person more than 12 months after receipt of the original notice from the court or more than 12 months after the minor returns to public school, whichever occurs last. Any information received from the court shall be destroyed by school authorities 12 months after its receipt from the court or 12 months after the minor returns to public school, whichever occurs last. At any time after the date by which a record required to be destroyed by this section should have been destroyed, the minor or his or her parent or guardian shall have the right to make a written request to the principal of the school that the minor's school records be reviewed to insure that the record has been destroyed. Upon completion of any requested review and no later than 30 days after the request for the review was received, the principal or his or her designee shall respond in writing to the written request and either shall confirm that the record has been destroyed or, if the record has not been destroyed, shall explain why destruction has not yet occurred and shall specify the date by which the record will be destroyed.

(e) Except as provided in paragraph (2) of subdivision (b), no liability shall attach to any person who transmits or fails to transmit any notice or information required under subdivision (b).

(f) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before that date deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, pursuant to Section 9611 of the Government Code, Section 827 of the Welfare and Institutions Code, as amended by Section 4 of Chapter 1103 of the Statutes of 1982, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 4. Section 3 of this bill incorporates amendments to Section 827 of the Welfare and Institutions Code proposed by both this bill and AB 2481. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 827 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 2481, in which case Section 2 of this bill shall not become operative.

CHAPTER 1371

An act to amend Section 230 of, and to add Section 212.5 to, the Education Code, relating to education.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 212.5 is added to the Education Code, to read:

212.5. For purposes of this chapter, "sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:

(a) Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress.

(b) Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.

(c) The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.

(d) Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.

SEC. 2. Section 230 of the Education Code is amended to read:

230. For purposes of this chapter, harassment and other discrimination on the basis of sex include, but are not limited to, the following practices:

(a) On the basis of sex, exclusion of a person or persons from participation in, denial of the benefits of, or subjection to harassment or other discrimination in, any academic, extracurricular, research, occupational training, or other program or activity.

(b) On the basis of sex, provision of different amounts or types of student financial aid, limitation of eligibility for student financial aid, or the application of different criteria to applicants for student financial aid or for participation in the provision of student financial aid by others. Nothing in this subdivision shall be construed to prohibit an educational institution from administering, or assisting in the administration of, scholarships, fellowships, or other forms of student financial aid, established pursuant to domestic or foreign wills, bequests, trusts, or similar legal instruments or by acts of a foreign government, which require that awards be made to

members of a particular sex; provided, that the overall effect of the award of these sex-restricted scholarships, fellowships, and other forms of student financial aid does not discriminate on the basis of sex.

(c) On the basis of sex, exclusion from participation in, or denial of equivalent opportunity in, athletic programs. For purposes of this subdivision, "equivalent" means equal or equal in effect.

(d) On the basis of sex, harassment or other discrimination among persons, including, but not limited to, students and nonstudents, or academic and nonacademic personnel, in employment and the conditions thereof, except as it relates to a bona fide occupational qualification.

(e) On the basis of sex, the application of any rule concerning the actual or potential parental, family, or marital status of a person, or the exclusion of any person from any program or activity or employment because of pregnancy or related conditions.

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

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1372

An act to amend Section 2261 of the Civil Code, relating to trustees.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 2261 of the Civil Code is amended to read:

2261. (a) (1) Subject to paragraph (2), when investing, reinvesting, purchasing, acquiring, exchanging, selling and managing property for the benefit of another, a trustee shall act with the care, skill, prudence, and diligence under the circumstances then prevailing, specifically including, but not by way of limitation, the general economic conditions and the anticipated needs of the trust and its beneficiaries, that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, to attain the goals

of the trustor as determined from the trust instrument. Within the limitations of the foregoing and considering individual investments as part of an overall investment strategy, a trustee is authorized to acquire every kind of property, real, personal or mixed, and every kind of investment.

(2) The trustor may expand or restrict the standards set forth in paragraph (1) by express provisions in a trust instrument. Any trustee acting for the benefit of another under that instrument shall not be liable to anyone whose interests arise from that trust for the trustee's good faith reliance on those express provisions.

(b) In the absence of express provisions to the contrary in any trust instrument, a trustee may without liability continue to hold property received into a trust at its inception or subsequently added to it or acquired pursuant to proper authority if and as long as the trustee, in the exercise of good faith and of reasonable prudence, discretion and intelligence, may consider that retention is in the best interests of the trust or in furtherance of the goals of the trustor as determined from any trust instrument. Such property may include stock in the trustee, if a corporation, and stock in any corporation controlling, controlled by, or under common control with such trustee.

(c) In the absence of express provisions to the contrary in any trust instrument, a deposit of trust funds at interest in any bank (including the trustee, if a bank) shall be a qualified investment to the extent that such deposit is insured under any present or future law of the United States, is collateralized pursuant to any present or future law of this state or the United States, or to such greater extent as a court of competent jurisdiction may authorize. Nothing in this section shall be construed as limiting the right of trustees in proper cases to make deposits of trust moneys in banks, subject, in the case of interest-bearing deposits, to such notice or other conditions respecting withdrawal as may be prescribed by law or governmental regulation affecting such deposits.

(d) Nothing in this section shall abrogate or restrict the power of the appropriate court in proper cases to direct or permit the trustee to deviate from the terms of the trust regarding the making or retention of investments.

(e) The provisions of this section shall apply to all trusts now existing or hereafter created. The terms "investments permissible by law for investment of trust funds," "authorized by law for investment of trust funds," "legal investments," "authorized investments," "investments acquired using the judgment and care which men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income, as well as the probable safety of their capital," and other words of similar import used in defining the powers of the trustee relative to investments, in the absence of other controlling or modifying provisions of the trust instrument, shall be construed as

authorizing any investment permitted, and imposing the standard of prudence required, by the terms of subdivision (a) of this section.

(f) The term "property" as used in this section includes life insurance, endowment, and annuity contracts issued by legal reserve companies authorized to do business in this state.

CHAPTER 1373

An act to repeal and add Article 3 (commencing with Section 6700) of Chapter 6 of Part 1 of Division 6 of the Fish and Game Code, relating to aquatic plants.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Article 3 (commencing with Section 6700) of Chapter 6 of Part 1 of Division 6 of the Fish and Game Code is repealed.

SEC. 2. Article 3 (commencing with Section 6700) is added to Chapter 6 of Part 1 of Division 6 of the Fish and Game Code, to read:

Article 3. Exclusive Leases

6700. The commission may lease to any person the exclusive privilege to harvest kelp in any designated kelp bed, or part thereof, if the commission determines that the lease is in the public interest. The commission shall describe the kelp beds of the state and adopt regulations for the leasing of the beds.

6701. Persons wishing to lease the exclusive privilege to harvest kelp shall submit a written application to the commission. An application shall include all of the following, and any other information the commission may prescribe:

(a) The number of the kelp bed or beds to be leased.

(b) The designated number of square miles in each bed.

6701.5. A deposit of not less than forty dollars ($40) for each square mile, or fraction thereof, of the total area of the kelp bed or beds which are designated in the application shall be submitted with the application. The deposit shall be refunded to the person making the application unless a lease is executed.

6702. (a) If the commission finds that the kelp beds included in the application are available for lease and that the lease would be in the public interest, the commission shall publish a notice that the area is being considered for leasing.

(b) The commission shall have legal notices published in a newspaper of general circulation in each county where the kelp bed, or any part thereof, is located, describing the area to be leased and

the type of operation to be conducted. Except as provided in this subdivision, the publication shall be made pursuant to Section 6066 of the Government Code.

(c) If the commission receives more than one application for the lease of a kelp bed or beds, it shall advertise for bids on the area being considered for leasing. The commission shall award the lease of that area to the highest qualified bidder.

6703. The initial term of a lease for the exclusive privilege of harvesting kelp shall not exceed 20 years. No lessee shall have an exclusive lease to an area in excess of 25 square miles or 50 percent of the total area of the kelp resource as shown on the maps of the resource prepared by the commission, whichever is greater.

6704. (a) Each kelp bed lease entered into or renewed, on and after January 1, 1985, shall specify a period prior to expiration when renewal of the lease may be requested by the lessee. If the commission determines that the lessee has complied with the terms of the lease, the lessee shall have a prior right to renew the lease on terms agreed upon between the commission and the lessee.

(b) If terms for a renewal of the lease are not agreed upon, or the commission determines that the lessee has not complied with the terms of the lease, the commission shall advertise for bids on the individual kelp beds comprising the lease.

(c) If a request for renewal is not made during the specified period by the lessee, the commission shall advertise for bids on the individual kelp beds comprising the lease.

(d) The duration of the term of any renewal of a lease shall not exceed 20 years.

6705. Notwithstanding Section 6704, with respect to any kelp lease in effect on January 1, 1983, the lessee shall have a prior right to renew the lease on terms agreed upon between the commission and the lessee. If the lessee does not renew the lease, or if terms are not agreed upon, the commission shall advertise for bids on the individual kelp beds comprising the lease. The term of any renewal of a lease shall not exceed 20 years. Any lease in effect on January 1, 1985, may be performed pursuant to its terms, notwithstanding this article, but any renewal of that lease is subject to this article.

6706. Notwithstanding Sections 6703 and 6704, at any time during the term of a lease, the commission and the lessee may negotiate and enter into a new lease on terms agreed upon between the two parties, if the commission determines that such a new lease would be in the best interest of the state. The initial term of the new lease shall not exceed 20 years.

6707. Each lease entered into, or renewed, on or after January 1, 1985, shall require, in addition to the license fee required by this chapter, a payment by the lessee of not less than the minimum royalty established under Article 2 (commencing with Section 6680), for all kelp harvested from the lease area, and shall provide for an annual advance payment of not less than forty dollars ($40) per square mile per year for the kelp bed leased, to be credited against

the amount payable by the lessee for each ton of kelp harvested during the ensuing year. The lease shall, in addition, include provisions for forfeiture of the lease if the annual payment is not made in advance.

6708. A lease may not be assigned, in whole or in part, by the lessee, either voluntarily or by operation of law, and no subleases or other rights may be granted thereunder by the lessee, and the lease shall be forfeited in the event of a violation of this section. Each lease shall contain a statement of the contents of this section.

6709. A lease, or any renewal thereof, shall be submitted to, and approved by, the Department of General Services.

6710. When an exclusive privilege to harvest kelp has been granted by lease by the commission, the commission shall furnish a true copy thereof to the department. The department shall file a notice for record in the recorder's office of the county in which the kelp bed or beds, or part thereof, are located, setting forth the name of the person having the privilege, the description of the kelp bed or beds, or part thereof, and the time for which the privilege has been granted. The notice required to be filed for record under this section may be a copy of the executed lease.

6711. The department shall inform the State Lands Commission of all kelp bed leases executed pursuant to this chapter, and shall furnish the State Lands Commission with the information concerning these leases that it may require.

CHAPTER 1374

An act amending Section 54 of Chapter 537 of the Statutes of 1983, relating to the reorganization of state government.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 54 of Chapter 537 of the Statutes of 1983 is amended to read:

Sec. 54. The Governor shall conduct a study to determine the appropriate state organizational structure required to achieve the Legislature's intent and purposes in regards to the state's work force. On the basis of findings from the study, the Governor is hereby authorized to submit to the Legislature a reorganization plan, pursuant to Article 7.5 (commencing with Section 12080) of Chapter 1 of Part 2 of Division 3 of Title 2 of the Government Code, which accomplishes the intent and purposes of this section. The Governor's reorganization plan shall be submitted to the Legislature by January 1, 1986. In the event the Governor determines that no reorganizational changes should be undertaken, he shall, by that

same date, submit to the Legislature a report which describes the findings and conclusions supporting the determination.

CHAPTER 1375

An act to add Section 3051.5 to the Civil Code, relating to liens.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 3051.5 is added to the Civil Code, to read:

3051.5. (a) A carrier has a lien on freight in its possession for the total amount owed the carrier by the shipper for freightage, charges for services and advances due on freight previously delivered upon the promise of the shipper to pay freightage, charges and advances, as provided in this section.

(b) The lien provided by this section shall not arise:

(1) Unless the carrier has notified the shipper, in writing, that failure to pay billed charges may result in a lien on future shipments, including the cost of storage and appropriate security for the subsequent shipment held pursuant to this section.

(2) As to any freight which consists of perishable goods.

(c) Except as otherwise provided in this section, the notice and sale provisions of Section 3052 shall apply to the sale of property subject to a lien provided by this section.

(d) No sale of property subject to a lien provided by this section may take place for at least 35 days from the date that possession of the property is delivered to the carrier but the notice period set forth in Section 3052 may run concurrently with the 35-day period provided by this subdivision. In addition to the notices required by Section 3052, the lienholder, at least 10 days prior to any sale of the property, shall notify the shipper and the consignee of the property, and each secured party having a perfected security interest in the property, of the date, time and place of the intended sale. This notice shall include the names of both the shipper and the consignee and shall describe the property to be sold.

(e) Any perfected security interest in the property is prior to the lien provided by this section. No sale of the property may be concluded if the amount bid at the sale is not at least equal to the total amount of all outstanding obligations secured by a perfected security interest in the property. If the minimum bid required for the sale of property pursuant to this subdivision is not received, the lienholder shall promptly release the property to the legal owner upon payment of the current amount for freightage, charges for services and advances due for shipment of that property, not including amounts due on freight previously delivered.

The proceeds of the sale shall be applied as follows:

(1) First, to secured parties having a perfected security interest, in the amounts to which they are respectively entitled.

(2) Second, to the discharge of the lien provided by this section and the costs of storage, appropriate security, and of the sale.

(3) The remainder, if any, to the legal owner of the property.

In the event of any violation by the lienholder of any provision of this subdivision the lienholder shall be liable to any secured party for all damages sustained by the secured party as a result thereof plus all expenses reasonably and necessarily incurred in the enforcement of the secured party's rights, including reasonable attorney's fees and costs of suit.

(f) The shipper shall be liable to the consignee for any damage which results from the failure of the property to reach the consignee as scheduled due to the carrier's proper exercise of its lien rights pursuant to this section. The measure of damages shall be determined as set forth in Section 2713 of the Commercial Code.

CHAPTER 1376

An act to amend Section 2983.8 of the Civil Code, relating to automobile sales contracts.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 2983.8 of the Civil Code is amended to read:

2983.8. Notwithstanding Section 2983.2 or any other provision of law, no deficiency judgment shall lie in any event in any of the following instances:

(a) After any sale of any mobilehome for which a permit is required pursuant to Section 35780 or 35790 of the Vehicle Code for failure of the purchaser to complete his conditional sale contract given to the seller to secure payment of the balance of the purchase price of such mobilehome. The provisions of this subdivision shall not apply in the event there is substantial damage to the mobilehome other than wear and tear from normal usage. This subdivision shall apply only to contracts entered into on or after the effective date of the act that enacted this subdivision and before July 1, 1981.

(b) After any sale or other disposition of a motor vehicle unless the court has determined that the sale or other disposition was in conformity with the provisions of this chapter and the relevant provisions of Division 9 (commencing with Section 9101) of the Commercial Code, including Section 9504. The determination may be made upon an affidavit unless the court requires a hearing in the particular case.

CHAPTER 1377

An act to amend Section 4624 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 4624 of the Labor Code, as added by Chapter 596 of the Statutes of 1984, is amended to read:

4624. (a) Annually, commencing on November 1, 1986, the administrative director shall publish the range of industrial medical-legal fees charged by independent medical examiners, agreed medical examiners, and physicians examining for either the applicant or defendant for the 12 months ending the previous June 30.

(b) The range of charges shall be shown by five specialty categories: orthopedics, internal medicine and cardiology, neurology, psychiatry, and all others. The 80th percentile of these charges, adjusted by multiplying the 80th percentile by one plus one-half of the percentage change in the Physician Fee Index published by the California Medical Association for the 12 months ending the previous June 30, shall be shown in all instances.

(c) Charges of all physicians providing industrial medical-legal evaluations shall be rebuttably presumed reasonable if the charges do not exceed the 80th percentile of fees in the appropriate specialty as established in subdivision (b). Charges exceeding the 80th percentile for the involved specialty may be found reasonable if accompanied by supporting information provided by the physician.

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

SEC. 3. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1378

An act to add Sections 12831 and 12832 to the Water Code, relating to local agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 12831 is added to the Water Code, to read:

12831. The department shall submit to the Controller all approved local agency claims for reimbursement allocations for flood control projects within 90 days of receipt of the claim.

SEC. 2. Section 12832 is added to the Water Code, to read:

12832. The Controller shall perform an audit of projects completed pursuant to this chapter within nine months after the claim is received by the department. If the Controller is unable to perform the audit within nine months after the claim is submitted by a local agency, the department shall pay at least 90 percent of the claim subject to completion of the audit by the Controller.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the time limits and procedures for the payment of grant moneys to local agencies for flood control projects specified by this act become applicable as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1379

An act to amend Sections 25174 and 25174.6 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 25174 of the Health and Safety Code is amended to read:

25174. (a) Each person who disposes of hazardous wastes onsite, or who submits the hazardous waste for disposal offsite, shall pay a fee directly to the State Board of Equalization for disposal of those wastes. The director shall establish a schedule of the fees to be paid to the State Board of Equalization by the operator for disposal of

hazardous or extremely hazardous waste, which shall provide revenues which shall not exceed the amount necessary, but shall be sufficient, to cover all costs incurred in the administration of this chapter and to provide a 5 percent operating reserve. The fees shall be deposited by the State Board of Equalization in the Hazardous Waste Control Account in the General Fund. The funds deposited in that account are continuously appropriated for expenditure without regard to fiscal years for the following purposes:

(1) To the State Board of Equalization to pay refunds of fees collected pursuant to Section 43051 of the Revenue and Taxation Code.

(2) To the department to carry out the provisions of this chapter.

(b) This section shall become operative on April 1, 1985.

SEC. 2. Section 25174.6 of the Health and Safety Code is amended to read:

25174.6. (a) Except as otherwise provided in Section 25174.9, the fee provided pursuant to Section 25174 to be paid, until March 31, 1985, by the operators of onsite and offsite hazardous waste facilities for each ton, or fraction thereof, of hazardous waste which the operator disposes of on land or applies to land, shall be at the following rates, and, on or after April 1, 1985, the fee provided pursuant to Section 25174 to be paid by persons disposing of hazardous waste onsite, or submitting hazardous waste for disposal offsite, for each ton, or fraction thereof, of hazardous waste disposed of on land or applied to land, shall be at the following rates:

(1) Two dollars and forty-eight cents ($2.48) for each ton, or fraction thereof, for up to the first 3,500 tons of hazardous waste disposed of, or submitted for offsite disposal, at each specific facility by each producer or at each specific onsite facility, per month, except as provided in subdivision (f), which is not subject to Subchapter III (commencing with Section 6921) of Chapter 82 of Title 42 of the United States Code, pursuant to subsection (b) of Section 6921 of Title 42 of the United States Code and which is not otherwise subject to the fee specified in paragraph (3) or (4), or hazardous waste for which the Administrator of the Environmental Protection Agency has determined that regulation is unwarranted, as specified in subparagraph (C) of paragraph (2) of, and subparagraph (c) of paragraph (3) of, subsection (b) of Section 6921 of Title 42 of the United States Code and which is not otherwise subject to the fee specified in paragraph (3) or (4). Except as provided in subdivision (f), any of this hazardous waste disposed of, or submitted for offsite disposal, which exceeds 3,500 tons per month, is exempt from any fee imposed by this section.

(2) Two dollars and forty-eight cents ($2.48) for each ton, or fraction thereof, for up to the first 3,500 tons, of hazardous waste disposed of, or submitted for offsite disposal, at each specific facility by each producer or at each specific onsite facility, per month, except as provided in subdivision (f), which result from the extraction, beneficiation, and processing of ores and minerals, including

phosphate rock and the overburden from the mining of uranium ore and which is not otherwise subject to the fee specified in paragraph (3) or (4). Except as provided in subdivision (f), any of this hazardous waste disposed of, or submitted for offsite disposal, which exceeds 3,500 tons per month is exempt from any fee imposed by this section.

(3) Nineteen dollars and eighty-four cents ($19.84) for each ton, or fraction thereof, of extremely hazardous waste.

(4) Nineteen dollars and eighty-four cents ($19.84) for each ton, or fraction thereof, of restricted hazardous wastes listed in Section 66900 of Title 22 of the California Administrative Code.

(5) Fifty cents ($0.50) for each ton or fraction thereof of solid hazardous waste residues resulting from incineration or other controlled chemical or physical treatment processes if the department determines that the processes alter the physical properties of the waste being incinerated or treated and effectively remove all free liquids and volatile organic constituents from the waste being incinerated or treated.

(6) Nine dollars and ninety-two cents ($9.92) for each ton, or fraction thereof, for up to the first 3,500 tons of hazardous waste disposed of, or submitted for offsite disposal, at each specific facility by each producer or at each specific onsite facility, per month, of hazardous waste, except as provided in subdivision (f), which is not otherwise subject to the fees specified in paragraph (1), (2), (3), (4) or (5).

(b) The amount of fees payable to the State Board of Equalization pursuant to this section shall be calculated using the total wet weight, measured in tons or fractions thereof, of the hazardous waste in the form in which the hazardous waste existed at the time of disposal, submission for disposal, or application to land using the land disposal methods defined in Section 66122 of Title 22 of the California Administrative Code.

(c) Notwithstanding subdivision (a), the fee rate for hazardous waste disposed of, or submitted for offsite disposal, into a surface impoundment which is double lined, meets the criteria specified in paragraph (1), and for which a report has not been submitted pursuant to paragraph (2), is ninety-nine cents ($0.99) for each ton or fraction thereof, of hazardous waste so disposed of or submitted for disposal. The owner or operator of the surface impoundment shall certify to the State Board of Equalization that the requirements of subparagraphs (A), (B), (C), (D), and (E) of paragraph (1) have been met before the fee rate specified in this subdivision may be applied to the hazardous waste disposed of, or submitted for disposal, into the surface impoundment.

(1) This subdivision applies only to hazardous waste disposed of, or submitted for disposal, into a surface impoundment which meets *all the following criteria:*

(A) The surface impoundment is double lined and is equipped with a leachate collection system which is in place and in operation,

and complies with existing federal and state regulations and guidance documents published by the United States Environmental Protection Agency prior to July 1, 1984.

(B) The surface impoundment has in place and in operation a minimum of one up-gradient and two down-gradient monitoring wells capable of identifying the migration of any hazardous waste constituents disposed of into the surface impoundment.

(C) The surface impoundment has in place and in operation a vadose zone monitoring system capable of identifying the migration of any hazardous waste constituents disposed of into the surface impoundment from the impoundment into the zone between the surface and the water table.

(D) The surface impoundment has an enforceable site closure plan which initiates closure of the impoundment within 12 years after the surface impoundment is certified pursuant to this subdivision. This plan shall require the surface impoundment, and any surrounding soils contaminated by the impoundment, to be returned to a nonhazardous condition within five years of initiating closure.

(E) The owner or operator has submitted to the department and to the California Regional Water Quality Control Board documentation demonstrating full compliance with subparagraphs (A), (B), (C), and (D).

(2) Upon discovering that, or receiving notification that, a surface impoundment certified for the fee rate specified in this subdivision has leaked or overflowed, and that there is migration into the vadose zone or into the waters of the state, the owner or operator of the surface impoundment shall report the migration to the department and the California Regional Water Quality Control Board within 24 hours after the migration or unauthorized release has been detected. The owner or operator shall transmit a full written report to the department and the regional board within five working days after the detection of the migration. The reporting requirements imposed by this paragraph are in addition to any requirements which may be imposed by Section 13271 of the Water Code. Unless the regional board, or its executive officer, determines that the presence of the hazardous waste constituents in the migration do not pose any short-term or long-term, present or potential, hazards to human health or the environment, the regional board shall issue a cease and desist order pursuant to Section 13301 of the Water Code prohibiting any discharge into the surface impoundment and shall take any other actions which are necessary.

(3) After a surface impoundment has been the subject of a report specified in paragraph (2), the fee rate specified in this subdivision for hazardous waste disposed of, or submitted for disposal, into that surface impoundment shall not apply and the fees shall be calculated pursuant to subdivision (a). The fee rate specified in this subdivision may again be applied to the hazardous waste disposed of, or submitted for disposal, into the surface impoundment only after the

department and the California Regional Water Quality Control Board determines that hazardous constituents are no longer migrating from the surface impoundment, and that there is no significant potential for them to migrate from the surface impoundment into the vadose zone or into the waters of the state, so that the presence of the hazardous constituents poses, or would pose, a present or potential hazard to human health or the environment.

(d) All fees imposed by this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

(e) The fees specified in subdivision (a) shall be effective commencing July 1, 1984, and shall remain in effect only until April 1, 1985.

(f) The monthly tonnage limits on the amount of hazardous waste subject to the fee imposed by this section shall remain in effect only until March 1, 1985, and after that date the fees specified in this section shall apply to all amounts of the hazardous waste disposed of, or submitted for offsite disposal, per month.

CHAPTER 1380

An act to amend Sections 14022, 14023, and 14024 of, and to add Section 14027 to, the Food and Agricultural Code, and to amend Section 39660 of the Health and Safety Code, relating to air pollution.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 14022 of the Food and Agricultural Code is amended to read:

14022. (a) In consultation with the State Department of Health Services and the State Air Resources Board, the director shall evaluate the health effects of pesticides which may be or are emitted into the ambient air of California and which may be determined to be a toxic air contaminant which poses a present or potential hazard to human health. Upon request of the State Air Resources Board, the director shall include a pesticide for evaluation.

(b) The director shall complete the evaluation of a pesticide within 90 days after receiving the scientific data specified in subdivision (c) from the State Department of Health Services and the State Air Resources Board. The director may extend the 90-day deadline for a period not to exceed 30 days if the director transmits to the Assembly Committee on Rules and the Senate Committee on Rules, for transmittal to the appropriate standing, select, or joint committee of the Legislature, a statement of reasons for extension of

the deadline.

(c) In conducting this evaluation, the director shall consider all available scientific data, including, but not limited to, relevant data provided by the State Department of Health Services, the Occupational Safety and Health Division of the Department of Industrial Relations, international and federal health agencies, private industry, academic researchers, and public health and environmental organizations. At the request of the director, the State Air Resources Board shall document the level of airborne emissions and the State Department of Health Services shall provide an assessment of related health effects of pesticides which may be determined to pose a present or potential hazard and each agency shall provide technical assistance to the department as it conducts its evaluation.

(d) The director may request, and any person shall provide, information on any substance which is or may be under evaluation and which is manufactured, distributed, or used by the person to whom the request is made, in order to carry out his or her responsibilities pursuant to this chapter. Any person providing information pursuant to this subdivision shall, at the request of the director, identify that portion of the information submitted to the department which is a trade secret and, upon the request of the director, shall provide documentation to support the claim of the trade secret. Information supplied which is a trade secret, as specified in Section 6254.7 of the Government Code, and which is so marked at the time of submission shall not be released to the public by the director, except in accordance with Section 1060 of the Evidence Code and Section 21160 of the Public Resources Code.

(e) The director shall give priority to the evaluation and regulation of substances based on factors related to the risk of harm to public health, amount or potential amount of emissions, manner of usage of the pesticide in California, persistence in the atmosphere, and ambient concentrations in the community.

SEC. 2. Section 14023 of the Food and Agricultural Code is amended to read:

14023. (a) Upon completion of the evaluation conducted pursuant to Section 14022, the director shall, in consultation and with the participation of the State Department of Health Services, prepare a report on the health effects of the pesticide which may be determined to be a toxic air contaminant which poses a present or potential hazard to human health due to airborne emission from its use. The report shall assess the availability and quality of data on health effects, including potency, mode of action, and other relevant biological factors, of the substance. The report shall also contain an estimate of the levels of exposure which may cause or contribute to adverse health effects and, in the case where there is no threshold of significant adverse health effects, the range of risk to humans, resulting from current or anticipated exposure. The report shall include the findings of the State Department of Health Services. The

report shall be made available to the public, subject to subdivision (d) of Section 14022.

(b) The report prepared pursuant to subdivision (a) shall be formally reviewed by the scientific review panel established according to Section 39670 of the Health and Safety Code. The director shall also make available the data deemed necessary to the scientific review panel, according to departmental procedures established to ensure confidentiality of proprietary information. The panel shall review, as appropriate, the scientific data on which the report is based, the scientific procedures and methods used to support the data, and the conclusions and assessments on which the report is based. The panel shall submit its written findings to the director within 45 days after receiving the report, but it may petition the director for an extension of the deadline, which may not exceed 15 working days.

(c) If the scientific review panel determines that the health effects report is seriously deficient, the report shall be returned to the director who shall revise and resubmit the report, within 30 days following receipt of the panel's determination, to the panel prior to development of emission control measures.

(d) Within 10 working days following receipt of the findings of the scientific review panel pursuant to subdivision (b), the director shall prepare a hearing notice and a proposed regulation which shall include the proposed determination as to whether a pesticide is a toxic air contaminant. After conducting a public hearing pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the director shall list, by regulation, pesticides determined to be toxic air contaminants.

(e) The director shall determine, in consultation with the State Department of Health Services, the State Air Resources Board, and the air pollution control districts or air quality management districts in the affected counties, the need for and appropriate degree of control measures for each pesticide listed as a toxic air contaminant pursuant to subdivision (d). Any person may submit written information for consideration by the director in making determinations on control measures.

SEC. 3. Section 14024 of the Food and Agricultural Code is amended to read:

14024. (a) For those pesticides for which a need for control measures has been determined pursuant to subdivision (e) of Section 14023 and pursuant to provisions of this code, the director, in consultation with the agricultural commissioners and air pollution control districts and air quality management districts in the affected counties, shall develop control measures designed to reduce emissions sufficiently so that the source will not expose the public to the levels of exposure which may cause or contribute to significant adverse health effects. Where no demonstrable safe level or threshold of significant adverse health effects has been established by the director, the control measures shall be designed to adequately

prevent an endangerment of public health through the application of best practicable control techniques.

(b) Best practicable control techniques may include, but are not limited to, the following:

(1) Label amendments.

(2) Applicator training.

(3) Restrictions on use patterns or locations.

(4) Changes in application procedures.

(5) Reclassification as a restricted material.

(6) Cancellation.

(c) After conducting a public hearing pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the director shall adopt, by regulation, control measures, including application of the best practicable control techniques enumerated in subdivision (b) or any other best applicable control technique, for those pesticides for which a need has been determined.

SEC. 4. Section 14027 is added to the Food and Agricultural Code, to read:

14027. (a) Notwithstanding Section 12998, any person who violates any rule or regulation, emission limitation, or permit condition adopted pursuant to this article is liable for a civil penalty not to exceed ten thousand dollars ($10,000) for each day in which the violation occurs. In assessing a civil penalty under this article, the court shall consider the appropriateness of the penalty with respect to the following factors:

(1) The size of the business of the person being charged.

(2) The gravity of the violation.

(3) The good faith of the person being charged.

(4) The history of previous violations.

Any money recovered under this section shall be paid into the Department of Food and Agriculture Fund for use by the department in administering this division and Division 6 (commencing with Section 11401).

(b) Liability may be imposed under subdivision (a) only if the department establishes that the violation was caused by an act which was the result of intentional or negligent conduct by the person accused of the violation.

SEC. 5. Section 39660 of the Health and Safety Code is amended to read:

39660. (a) Upon the request of the state board, the State Department of Health Services, in consultation with and with the participation of the state board, shall evaluate the health effects of and prepare recommendations regarding substances, other than pesticides in their pesticidal use, which may be or are emitted into the ambient air of California which may be determined to be toxic air contaminants.

(b) In conducting this evaluation, the State Department of Health Services shall consider all available scientific data, including, but not

limited to, relevant data provided by the state board, the Occupational Safety and Health Division of the Department of Industrial Relations, international and federal health agencies, private industry, academic researchers, and public health and environmental organizations.

(c) The evaluation shall assess the availability and quality of data on health effects, including potency, mode of action, and other relevant biological factors, of the substance.

The evaluation shall also contain an estimate of the levels of exposure which may cause or contribute to adverse health effects and, in the case where there is no threshold of significant adverse health effects, the range of risk to humans resulting from current or anticipated exposure.

(d) The State Department of Health Services shall submit its written evaluation and recommendations to the state board within 90 days after receiving the request of the state board pursuant to subdivision (a). The State Department of Health Services may, however, petition the state board for an extension of the deadline, not to exceed 30 days, setting forth its statement of the reasons which prevent the department from completing its evaluation and recommendations within 90 days. Upon receipt of a request for extension of, or noncompliance with, the deadline contained in this section, the state board shall immediately transmit to the Assembly Committee on Rules and the Senate Committee on Rules, for transmittal to the appropriate standing, select, or joint committee of the Legislature, a statement of reasons for extension of the deadline, along with copies of the department's statement of reasons which prevent it from completing its evaluation and recommendations in a timely manner.

(e) The state board or a district may request, and any person shall provide, information on any substance which is or may be under evaluation and which is manufactured, distributed, emitted, or used by the person of whom the request is made, in order to carry out its responsibilities pursuant to this chapter. To the extent practical, the state board or a district may collect the information in aggregate form or in any other manner designed to protect trade secrets.

Any person providing information pursuant to this subdivision may, at the time of submission, identify a portion of the information submitted to the state board or a district as a trade secret and shall support the claim of a trade secret, upon the written request of the state board or district board. Subject to Section 1060 of the Evidence Code, information supplied which is a trade secret, as specified in Section 6254.7 of the Government Code, and which is so marked at the time of submission, shall not be released to any member of the public. This section shall not be construed to prohibit the exchange of properly designated trade secrets between public agencies when those trade secrets are relevant and necessary to the exercise of their jurisdiction provided that the public agencies exchanging those trade secrets shall preserve the protections afforded that information

by this paragraph.

Any information not identified as a trade secret shall be available to the public unless exempted from disclosure by other provisions of law. The fact that information is claimed to be a trade secret is public information. Upon receipt of a request for the release of information which has been claimed to be a trade secret, the state board or district shall immediately notify the person who submitted the information, and shall determine whether or not the information claimed to be a trade secret is to be released to the public. The state board or district board, as the case may be, shall make its determination within 60 days after receiving the request for disclosure, but not before 30 days following the notification of the person who submitted the information. If the state board or district decides to make the information public, it shall provide the person who submitted the information 10 days' notice prior to public disclosure of the information.

(f) The State Department of Health Services and the state board shall give priority to the evaluation and regulation of substances based on factors related to the risk of harm to public health, amount or potential amount of emissions, manner of usage of the substance in California, persistence in the atmosphere, and ambient concentrations in the community.

CHAPTER 1381

An act to amend Sections 22670, 22851.4, and 22851.6 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 22670 of the Vehicle Code, as amended by Chapter 73 of the Statutes of 1984, is amended to read:

22670. For lien sale purposes, the public agency causing the removal of the vehicle shall determine if the estimated value of the vehicle that has been ordered removed, towed, or stored is one hundred dollars ($100) or less, over one hundred dollars ($100) but one thousand dollars ($1,000) or less, or over one thousand dollars ($1,000).

If the public agency fails or refuses to put a value on, or to estimate the value of, the vehicle within 3 days after the date of removal of the vehicle, the garage keeper specified in Section 22851 or the garage keeper's agent shall determine, under penalty of perjury, if the estimated value of the vehicle that has been ordered removed, towed, or stored, is one hundred dollars ($100) or less, over one hundred dollars ($100) but one thousand dollars ($1,000) or less, or

over one thousand dollars ($1,000).

This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1988, pursuant to Section 9611 of the Government Code, Section 22670 of the Vehicle Code, as added by Section 18 of Chapter 1111 of the Statutes of 1980, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. Section 22851.4 of the Vehicle Code is amended to read:

22851.4. If the vehicle is determined to have a value exceeding one hundred dollars ($100) pursuant to Section 22670, the lien shall be satisfied pursuant to Sections 3067 to 3075, inclusive, of the Civil Code.

SEC. 3. Section 22851.6 of the Vehicle Code is amended to read:

22851.6. (a) If the vehicle has a value not exceeding one hundred dollars ($100) as determined pursuant to Section 22670, the lien shall be satisfied pursuant to Sections 22851.8 and 22851.10.

(b) All forms required by Sections 22851.8 and 22851.10 shall be prescribed by the Department of Motor Vehicles. The language used in the notices and declarations shall be simple and nontechnical.

CHAPTER 1382

An act to amend Section 977.2 of the Penal Code, relating to arraignments.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 977.2 of the Penal Code is amended, to read:

977.2. (a) (1) Notwithstanding Section 977, the Board of Supervisors of Contra Costa, Los Angeles, San Diego, or Shasta Counties, or any of them, with the approval of the presiding judge, the district attorney, and the public defender, may establish a pilot project. The project shall be developed in close consultation between the presiding judge, the district attorney, the public defender, and the sheriff, and shall not exceed four years in duration.

(2) The Board of Supervisors of San Bernardino County, with the approval of the presiding judge of the court, the supervising judge of any division of the court in which the project is to be conducted, the district attorney and the public defender may establish a pilot project. The project shall be developed in close consultation between the presiding judge, the supervising judge, the district attorney, the public defender, and the sheriff, and shall not exceed four years in duration.

(b) The project shall permit the initial arraignment in municipal or superior court of defendants held in any state, county, or local penal facility within the county on felony charges, except for those defendants who were indicted by a grand jury, to be conducted by two-way electronic audio video communication between the defendant and the courtroom in lieu of the physical presence of the defendant in the courtroom. The defendant may be accompanied by his or her attorney, and may enter a plea, during such an arraignment. The defendant shall have the right to make his or her plea while physically present in the courtroom if he or she so requests.

(c) Each county conducting a pilot project pursuant to this section shall report annually to the Legislature any data, including costs, benefits, and problems incurred, as shall be specified by the Judicial Council.

(d) Notwithstanding any other provision of this section, a judge may order a defendant's personal appearance in court for arraignment, and shall not pursuant to this section accept a plea of guilty or no contest from a defendant not physically in the courtroom.

CHAPTER 1383

An act to add Sections 5678, 5679, and 5680 to the Business and Professions Code, relating to malpractice actions.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 5678 is added to the Business and Professions Code, to read:

5678. Every insurer providing professional liability insurance to a holder of a certificate, and every certificate holder, shall send a complete report to the board on any settlement or arbitration award in excess of five thousand dollars ($5,000) of a claim or action for damages caused by the certificate holder's fraud, deceit, negligence, incompetency or recklessness in practice. The report shall be sent within 30 days after the settlement agreement has been consented to by the insured or within 30 days after service of the arbitration award on the parties.

SEC. 2. Section 5679 is added to the Business and Professions Code, to read:

5679. Every settlement or arbitration award in excess of five thousand dollars ($5,000) of a claim or action for damages caused by the certificate holder's fraud, deceit, negligence, incompetency or recklessness in practice when the certificate holder does not possess

professional liability insurance as to the claim shall, within 30 days after any settlement agreement has been consented to by the certificate holder or 30 days after service of the arbitration award on the parties, be reported to the board. A complete report shall be made by appropriate means by the certificate holder or his counsel, with a copy of the communication to be sent to the claimant through his counsel if he is so represented, or directly if he is not. If, within 45 days of the conclusion of the settlement agreement or service of the arbitration award on the parties, counsel for the claimant, or if he is not represented by counsel, the claimant himself, has not received a copy of the report, he shall himself make such a complete report. Failure of the certificate holder or claimant or, if represented by counsel, their counsel, to comply with the provisions of this section shall be a misdemeanor punishable by a fine of not less than one hundred dollars ($100) or more than one thousand dollars ($1,000). Knowing and intentional failure to comply with the provisions of this section, or conspiracy or collusion not to comply with the provisions of this section, or to hinder or impede any other person in compliance shall be a misdemeanor punishable by a fine of not less than ten thousand dollars ($10,000) nor more than one hundred thousand dollars ($100,000).

SEC. 3. Section 5680 is added to the Business and Professions Code, to read:

5680. Within 10 days after a judgment by a court of this state that a certificate holder has committed a crime or is liable for any death, personal or property injury or loss caused by the certificate holder's fraud, deceit, negligence, incompetency or recklessness in practice, the clerk of the court which rendered the judgment shall report the same to the board.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1384

An act to amend Section 1 of Chapter 370 of the Statutes of 1981, and to repeal Chapter 319 of the Statutes of 1981, relating to disposition and leasing of property by the Director of General Services, and making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. The Director of General Services, with the approval of the State Public Works Board, is hereby authorized to sell, exchange, or lease for current market value, or for any lesser consideration authorized by law and upon those terms and conditions and with such reservations and exceptions which in his opinion may be in the best interest of the state, all or any part of the following real property:

Parcel 1. Approximately 10 acres, being a portion of Topanga State Park located in the western portion of Santa Ynez Canyon adjacent to Pacific Highlands Tract within the City of Los Angeles, County of Los Angeles.

Parcel 2. Approximately 2 acres, comprised of two separate parcels, being a portion of Empire Mine State Historical Park located on the north side of East Bennett St. Road, County of Nevada.

Parcel 3. Approximately 1.06 acres, comprised of two parcel bounded by Olive Avenue, Sixth Street, and Oak Avenue, being portion of Carpinteria State Beach, within the City of Carpinteria, County of Santa Barbara.

Parcel 4. Approximately 5.54 acres, being the National Guard Armory, located at 251 West Hedding Street in the City of San Jose.

Parcel 5. Approximately 0.58 acres, and improvements thereon, located in the northeast corner of the existing Altaville Forest Fire Station Site, County of Calaveras.

SEC. 1.5. The Director of General Services, with the approval of the Director of Fish and Game, is hereby authorized to sell, exchange, or lease for current market value and upon those terms and conditions and with such reservations and exceptions which in his or her opinion may be in the best interest of the state, approximately 345.7 acres, comprised of three separate parcels, being a portion of Little Lake Wildlife Area, County of Inyo. If any interest in these parcels is transferred to other than a public agency, there shall be reserved an easement sufficient to provide for the protection of all cultural resources and any sensitive wildlife resources on the parcels.

SEC. 2. The Director of General Services, with the approval of the Chancellor of the California State University, is hereby authorized to exchange upon those terms, conditions, and with such reservations and exceptions which in his opinion may be in the best interest of the state, all or any part of approximately 9.4 acres of vacant land located adjacent to Interstate 5 at Lassen Lane near the City of Mt. Shasta, County of Siskiyou.

SEC. 3. The Director of General Services, with the approval of the State Public Works Board and the Director of Parks and Recreation, is hereby authorized to exchange upon those terms,

conditions, and with such reservations and exceptions which in his opinion may be in the best interest of the state, all or any part of the following described properties:

Parcel 1. Approximately 98 acres, comprised of three separate parcels, being a portion of Big Basin Redwoods State Park located north of China Grade Road, County of Santa Cruz.

Parcel 2. Approximately 14.5 acres, being a portion of Santa Monica Mountains Backbone Trail, located adjacent to Monte Vista Road and west of Topanga Canyon Boulevard, County of Los Angeles.

Parcel 3. Approximately 3 acres, being a portion of Henry Cowell Redwoods State Park, located west of the Southern Pacific Railroad near Grahm Hill Road, County of Santa Cruz.

SEC. 3.5. The Director of General Services, with the approval of the State Public Works Board and the Director of Parks and Recreation, is hereby authorized to sell or exchange for current market value and upon those terms and conditions and with such reservations and exceptions which in his opinion may be in the best interest of the state, all or any part of approximately 1,164 acres, comprised of four separate parcels, being a portion of Anza-Borrego Desert State Park lying adjacent to or in the vicinity of the southwesterly boundary of the park, County of San Diego.

SEC. 4. The Director of General Services, with the approval of the Director of Parks and Recreation, is hereby authorized to sell for current market value upon those terms, conditions, and with such reservations and exceptions which in his opinion may be in the best interest of the state, approximately one-half acre of land at Cardiff State Beach adjacent to 645 Circle Drive, Solana Beach, California. The extent of the acreage sold pursuant to this section shall be the minimum necessary to accommodate an erosion control structure plus any lands lying upland of that structure. Notwithstanding any other provision of law, the sale may be negotiated with the property owner at 645 Circle Drive, Solana Beach, California. Upon that sale, the landowner shall hold harmless, and agree to indemnify, the state against any liability which may arise from the land, and any improvement subsequently constructed thereon, sold pursuant to this section.

SEC. 5. Notice of every public auction or bid opening shall be posted on the property to be sold and shall be published in a newspaper of general circulation published in the county in which the real property to be sold is situated. All parcels in this act are exempt from the provisions of Sections 21100 to 21174, inclusive, of the Public Resources Code.

SEC. 6. Any cost or expense incurred in the disposition of any parcels may be reimbursed from the proceeds of that disposition.

SEC. 7. Subject to Section 6 of this act, any moneys received from the disposition of any parcel in this act shall be paid into the General Fund, except as follows:

(a) The net proceeds from the sale of Parcel 4 of Section 1 shall

be deposited into the Armory Fund.

(b) Any net proceeds from the sale of the Little Lake Wildlife Area, as provided in Section 1.5, shall be deposited into the Wildlife Restoration Fund.

(c) The net proceeds from the sale of Parcels 1, 2, and 3 of Section 1, and any net proceeds from the sale of any of the parcels, as provided in Section 3.5, shall be deposited as provided in Section 5006.15 of the Public Resources Code. In addition, the amount of the net proceeds from the sale of Parcel 2 of Section 1 shall be a credit for the acquisition of other lands providing improved access to Empire Mine State Historical Park from State Highway Route 174; and the amount of the net proceeds from the sale of any of the parcels, as provided in Section 3.5, shall be a credit for the acquisition of inholdings in Anza-Borrego Desert State Park.

SEC. 8. Notwithstanding Section 6 of Chapter 762 of the Statutes of 1979, the net proceeds from the disposition of approximately 1.6 acres of land and improvements thereon, described as Parcel 11 in Section 1 of Chapter 762 of the Statutes of 1979, shall be paid into the Armory Fund.

SEC. 9. Chapter 319 of the Statutes of 1981 is repealed.

SEC. 10. Section 1 of Chapter 370 of the Statutes of 1981 is amended to read:

Section 1. The Director of General Services, with the approval of the State Public Works Board, is hereby authorized to sell, exchange, or lease for current market value, or for any lesser consideration authorized by law, and upon those terms and conditions and with such reservations and exceptions which in his opinion may be in the best interest of the state, all or any part of the following real property:

Parcel 1. Approximately 0.44 acre of land and improvements thereon, at the southwest corner of Santa Anita and McGroarty Streets, consisting of a veterinarian livestock and poultry diagnostic laboratory for the Department of Food and Agriculture in the City of San Gabriel, Los Angeles County.

Parcel 2. Approximately 5 acres of land in Kings County, located on Skyline Road three miles westerly of Kettleman City, received by the Board of Equalization as partial payment for a creditor's claim.

Parcel 3. Approximately 2.3 acres of land, being a portion of the field office of the Department of Motor Vehicles in the City of Carmichael, Sacramento County.

Parcel 4. Approximately 0.34 acre of land on the west side of Old Sanjohn Road adjacent southerly to the Southern Pacific railroad tracks, being a portion of San Buenaventura State Beach in Ventura County.

Parcel 5. Approximately 2 acres of land located four miles easterly of the City of Ione, being the site of a reservoir used by the Preston School of Industry in Amador County.

SEC. 11. As to any property sold or exchanged pursuant to this act containing 10 acres or less, the Director of General Services shall except and reserve to the state all mineral deposits, as defined in

Section 6407 of the Public Resources Code, below a depth of 500 feet, without surface rights of entry. As to any such property sold or exchanged containing more than 10 acres, the Director of General Services shall except and reserve in the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, together with the right to prospect for, mine, and remove the deposits. The rights to prospect for, mine, and remove shall be limited to those areas of the property conveyed which the director, after consultation with the State Lands Commission, determines to be reasonably necessary for the removal of the resources and deposits.

SEC. 12. The sum of eight hundred thousand dollars ($800,000) is hereby appropriated from the State Parks and Recreation Fund from proceeds derived from the sale of approximately nine acres of land within the City of Sacramento and County of Sacramento, which is authorized by Section 4 of Chapter 1266 of the Statutes of 1982, for acquisition at Old Sacramento State Historic Park according to the following schedule:

(a) For acquisition of lands needed for an engineering facility for the State Railroad Museum..... $300,000
(b) For acquisition of lands and improvements needed for completion of the historic Central Pacific Freight Depot $500,000

Prior to the encumbrance of funds appropriated in category (b) for the acquisition of lands and improvements, the Department of Parks and Recreation shall enter into an agreement with the Sacramento Housing and Redevelopment Agency, subject to approval by the State Public Works Board, that shall provide the department with authority to review and approve working drawings for construction of Phase 1 improvements (site preparation, foundations, and building exterior) for the historic freight depot, in order to assure that the reconstructed freight depot will be compatible with the interpretation and operation of the State Railroad Museum.

Acquisition by the State Public Works Board of all lands authorized by this appropriation shall be based on appraised values approved by the Department of General Services, Real Estate Services Division. The amount approved by the board for acquisition of improvements shall not exceed actual costs of construction.

In addition to any other requirements and conditions imposed with respect to the sale of the nine acres of land, there shall be reserved an easement sufficient to accommodate the existing bikeway connecting Old Sacramento and Discovery Park.

CHAPTER 1385

An act to amend Sections 46614 and 52317 of the Education Code, relating to regional occupational centers and programs.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 46614 of the Education Code is amended to read:

46614. The average daily attendance for attendance of pupils who reside outside of the regional occupational center or program attendance area and are enrolled in a regional occupational center or program pursuant to Section 52317 shall be credited to the regional occupational center or program that incurs the training costs for purposes of determining state apportionments and the revenue limits.

For purposes of computing the revenue limits for pupils who enroll in a regional occupational center or program outside their district of residence, the regional occupational center or program shall claim its own revenue limit.

The regional occupational center or program shall not be eligible for state reimbursement for home-to-school transportation allowances for pupils who are enrolled in the regional occupational center or program pursuant to this section.

SEC. 2. Section 52317 of the Education Code is amended to read:

52317. The governing board of any regional occupational center or program operated by a joint powers agency, a single district, or a county superintendent of schools maintaining a county regional occupational center or program, may admit to its programs or classes, on a full-time or part-time basis, any person who can benefit from the program or class, including a person who does not reside in the attendance area of the center or program, if there are openings in the program or class. For purposes of this section, an interdistrict attendance agreement shall not be required for out-of-district enrollments.

Under no circumstances shall any person be enrolled in a regional occupational center or program pursuant to this section in a manner which contradicts delineation of function agreements.

Notwithstanding Section 51769 of the Education Code and Section 3368 of the Labor Code, regional occupational centers or programs or school districts within the area controlled by regional occupational centers or programs offering training to pupils residing outside its attendance area, shall provide for workers' compensation for pupils enrolled in a community classroom program.

SEC. 3. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and

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

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1386

An act to amend Section 14007 of, and to add Section 11501.1 to, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 11501.1 is added to the Food and Agricultural Code, to read:

11501.1. (a) This division and Division 7 (commencing with Section 12501) are of statewide concern and occupy the whole field of regulation regarding the registration, sale, transportation, or use of economic poisons to the exclusion of all local regulation. Except as otherwise specifically provided in this code, no ordinance or regulation of local government, including, but not limited to, an action by a local governmental agency or department, a county board of supervisors or a city council, or a local regulation adopted by the use of an initiative measure, may prohibit or in any way attempt to regulate any matter relating to the registration, sale, transportation, or use of economic poisons, and any of these ordinances, laws, or regulations are void and of no force or effect.

(b) Neither this division nor Division 7 (commencing with Section 12501) is a limitation on the authority of a state agency or department to enforce or administer any law that the agency or department is authorized or required to enforce or administer.

SEC. 2. Section 14007 of the Food and Agricultural Code is amended to read:

14007. Every permit which is issued under the regulations adopted pursuant to this chapter is conditioned upon compliance with this code and regulations adopted pursuant thereto and upon such other specified conditions as may be required to accomplish the purposes of this chapter.

SEC. 3. It is the intent of the Legislature by this act to overturn the holding of People ex rel. George Deukmejian v. County of

Mendocino et al., and to reassert the Legislature's intention that matters relating to economic poisons are of a statewide interest and concern and are to be administered on a statewide basis by the state unless specific exceptions are made in state legislation for local administration.

CHAPTER 1387

An act to add Section 3237 to the Civil Code, relating to loans.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 3237 is added to the Civil Code, to read:

3237. When a lending institution requires that a payment bond be furnished as a condition of lending money to finance a private work of improvement, and accepts in writing as sufficient a payment bond posted in fulfillment of this requirement, it may thereafter object to the borrower as to the validity of that payment bond or refuse to make the loan based upon any objection to the payment bond only if the bond underwriter was licensed by the Department of Insurance.

As used in this section, "lending institution" includes commercial banks, savings and loan institutions, credit unions, and any other organizations or persons that are engaged in the business of financing loans.

CHAPTER 1388

An act to add Sections 30171.2 and 30171.5 to the Public Resources Code, relating to the California coastal zone, and making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 30171.2 is added to the Public Resources Code, to read:

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

program shall continue to be operative, including the right to develop designated areas as provided in the program.

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

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

(d) Any person entitled to reimbursement of fees under subdivision (c) shall file a claim with the State Board of Control which shall determine the validity of the claim and pay that person a pro rata share based on the relative amounts of fees paid under the local coastal program or any agreement or contract entered pursuant thereto.

There is hereby appropriated to the State Board of Control the fees referred to in subdivision (c), for the purpose of making refunds under this section.

SEC. 2. Section 30171.5 is added to the Public Resources Code, to read:

30171.5. (a) The amount of the mitigation fee for development on nonprime agricultural lands in the coastal zone in the City of Carlsbad that lie outside of the areas described in subdivision (f) of Section 30170 and subdivision (b) of Section 30171 shall be determined in the applicable segment of the local coastal program of the City of Carlsbad, but shall be not less than five thousand dollars ($5,000), nor more than ten thousand dollars ($10,000), per acre. All mitigation fees collected under this section shall be deposited in the State Coastal Conservancy Fund.

(b) All mitigation fees collected pursuant to this section are hereby appropriated to, and shall be expended by, the State Coastal Conservancy in the following order of priority:

(1) Restoration of natural resources and wildlife habitat in Batiquitos Lagoon.

(2) Development of an interpretive center at Buena Vista Lagoon.

(3) Restoration of beaches managed for public use in the coastal zone in the City of Carlsbad.

(4) Any other project or activity benefiting natural resources in the coastal zone in the City of Carlsbad that is provided for in the local coastal program of the City of Carlsbad.

SEC. 3. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

CHAPTER 1389

An act to amend Section 51347 of the Health and Safety Code, relating to housing.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 51347 of the Health and Safety Code is amended to read:

51347. (a) Loan commitments under the program authorized by this chapter shall be limited to an aggregate amount of two billion dollars ($2,000,000,000). No new loan commitments shall be provided after June 30, 1987.

(b) New commitments under this chapter shall be suspended if and when the prevailing mortgage rate drops below 12 percent. As used in this subdivision, "prevailing mortgage rate" means the weighted average yield accepted by the Federal National Mortgage Association in its most recent free market auction for four-month, conventional mortgage commitments.

CHAPTER 1390

An act to add Sections 13113.7 and 18029.6 to the Health and Safety Code, relating to fire protection.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 13113.7 is added to the Health and Safety Code, to read:

13113.7. (a) Except as otherwise provided in this section, a smoke detector, approved and listed by the State Fire Marshal pursuant to Section 13114, shall be installed, in accordance with the manufacturer's instructions in each dwelling intended for human occupancy within the earliest applicable time period as follows:

(1) For all dwelling units intended for human occupancy, upon the owner's application on or after January 1, 1985, for a permit for alterations, repairs, or additions, exceeding one thousand dollars ($1,000).

(2) For all other dwelling units intended for human occupancy on or after January 1, 1987.

However, if any local rule, regulation, or ordinance, adopted prior to the compliance dates specified in paragraphs (1) and (2) requires installation in a dwelling unit intended for human occupancy of smoke detectors which receive their power from the electrical system of the building and requires compliance with the local rule, regulation, or ordinance at a date subsequent to the dates specified in this section, the compliance date specified in the rule, regulation, or ordinance shall, but only with respect to the dwelling units specified in this section, take precedence over the dates specified in this section.

The State Fire Marshal may adopt regulations exempting dwellings intended for human occupancy with fire sprinkler systems from the provisions of this section, if he or she determines that a smoke detector is not reasonably necessary for fire safety in the occupancy.

Unless prohibited by local rules, regulations, or ordinances, a battery-operated smoke detector, which otherwise meets the standards adopted pursuant to Section 13114 for smoke detectors, satisfies the requirements of this section.

(b) "Dwelling units intended for human occupancy," as used in this section, includes a duplex, lodging house, apartment complex, hotel, motel, condominium, stock cooperative, time-share project, or dwelling unit of a multiple-unit dwelling complex. For the purpose of this part, "dwelling units intended for human occupancy" does not include manufactured homes as defined in Section 18007, mobilehomes as defined in Section 18008, and commercial coaches as

defined in Section 18001.8.

(c) The owner of each dwelling unit subject to this section shall supply and install smoke detectors required by this section in the locations and in the manner set forth in the manufacturer's instructions, as approved by the State Fire Marshal's regulations. In the case of apartment complexes and other multiple-dwelling complexes, a smoke detector shall be installed in the common stairwells. All fire alarm warning systems supplemental to the smoke detector shall also be listed by the State Fire Marshal.

(d) A high rise structure, as defined in subdivision (b) of Section 13210 and regulated by Chapter 3 (commencing with Section 13210), and which is used for purposes other than as dwelling units intended for human occupancy, is exempt from the requirements of this section.

(e) The owner shall be responsible for testing and maintaining detectors in hotels, motels, lodging houses, and common stairwells of apartment complexes and other multiple dwelling complexes.

An owner or the owner's agent may enter any dwelling unit, efficiency dwelling unit, guest room, and suite owned by the owner for the purpose of installing, repairing, testing, and maintaining single station smoke detectors required by this section. Except in cases of emergency, the owner or owner's agent shall give the tenants of each such unit, room, or suite reasonable notice in writing of the intention to enter and shall enter only during normal business hours. Twenty-four hours shall be presumed to be reasonable notice in absence of evidence to the contrary.

The smoke detector shall be operable at the time that the tenant takes possession. The apartment complex tenant shall be responsible for notifying the manager or owner if the tenant becomes aware of an inoperable smoke detector within his or her unit. The owner or authorized agent shall correct any reported deficiencies in the smoke detector and shall not be in violation of this section for a deficient smoke detector when he or she has not received notice of the deficiency.

(f) A violation of this section is an infraction punishable by a maximum fine of two hundred dollars ($200) for each offense.

(g) This section shall not affect any rights which the parties may have under any other provision of law because of the presence or absence of a smoke detector.

(h) This section shall not apply to the installation of smoke detectors in single-family dwellings or factory-built housing which is regulated by Section 13113.8, as added by Assembly Bill No. 2285 of the 1983–84 Regular Session.

SEC. 2. Section 18029.6 is added to the Health and Safety Code, to read:

18029.6. On or after January 1, 1986, all used manufactured homes, used mobilehomes, and used commercial coaches which are sold shall have a smoke detector which is operable on the date of transfer of title. The department may promulgate regulations to

carry out the provisions of this section.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1391

An act to amend Sections 1627.5 and 2727.5 of the Business and Professions Code, to amend Section 56.05 of the Civil Code, to amend Sections 1797.52, 1797.56, 1797.58, 1797.74, 1797.106, 1797.170, 1798, 1798.2, 1798.4, 1798.100, 1798.102, 1798.104, and 1799.2 of, to amend the heading of Article 1 (commencing with Section 1798.100) of Chapter 6 of Part 1 of Division 2.5 of, to add Sections 1797.59 and 1797.97 to, and to add Article 4 (commencing with Section 1798.180) to Chapter 6 of Part 1 of Division 2.5 of, the Health and Safety Code, and to amend Sections 402 and 11165 of the Penal Code, relating to emergency medical services.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 1627.5 of the Business and Professions Code is amended to read:

1627.5. No person licensed under this chapter, who in good faith renders emergency care at the scene of an emergency occurring outside the place of that person's practice, or who, upon the request of another person so licensed, renders emergency care to a person for a complication arising from prior care of another person so licensed, shall be liable for any civil damages as a result of any acts or omissions by that person in rendering the emergency care.

SEC. 2. Section 2727.5 of the Business and Professions Code is amended to read:

2727.5. A person licensed under this chapter who in good faith renders emergency care at the scene of an emergency which occurs outside both the place and the course of that person's employment shall not be liable for any civil damages as the result of acts or omissions by that person in rendering the emergency care.

This section shall not grant immunity from civil damages when the person is grossly negligent.

SEC. 3. Section 56.05 of the Civil Code is amended to read:

56.05. For purposes of this part:

(a) "Authorization" means permission granted in accordance with Section 56.11 or 56.21 for the disclosure of medical information.

(b) "Medical information" means any individually identifiable information in possession of or derived from a provider of health care regarding a patient's medical history, mental or physical condition, or treatment.

(c) "Patient" means any natural person, whether or not still living, who received health care services from a provider of health care and to whom medical information pertains.

(d) "Provider of health care" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code; any person licensed pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act; any person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code; any clinic, health dispensary, or health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code; and any group practice prepayment health care service plan regulated pursuant to the Knox-Keene Health Care Service Plan Act of 1975, Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

SEC. 4. Section 1797.52 of the Health and Safety Code is amended to read:

1797.52. "Advanced life support" means special services designed to provide definitive prehospital emergency medical care, including, but not limited to, cardiopulmonary resuscitation, cardiac monitoring, cardiac defibrillation, advanced airway management, intravenous therapy, administration of specified drugs and other medicinal preparations, and other specified techniques and procedures administered by authorized personnel under the direct supervision of a base hospital as part of a local EMS system at the scene of an emergency, during transport to an acute care hospital, during interfacility transfer, and while in the emergency department of an acute care hospital until responsibility is assumed by the emergency or other medical staff of that hospital.

SEC. 5. Section 1797.56 of the Health and Safety Code is amended to read:

1797.56. "Authorized registered nurse," "mobile intensive care nurse," or "MICN" means a registered nurse who is functioning pursuant to Section 2725 of the Business and Professions Code and who has been authorized by the medical director of the local EMS agency as qualified to provide prehospital advanced life support or to issue instructions to prehospital emergency medical care personnel within an EMS system according to standardized procedures developed by the local EMS agency consistent with statewide guidelines established by the authority. Nothing in this section shall be deemed to abridge or restrict the duties or functions of a registered nurse or mobile intensive care nurse as otherwise provided by law.

SEC. 6. Section 1797.58 of the Health and Safety Code is amended to read:

1797.58. "Base hospital" means one of a limited number of hospitals which, upon designation by the local EMS agency and upon the completion of a written contractual agreement with the local EMS agency, is responsible for directing the advanced life support system or limited advanced life support system and prehospital care system assigned to it by the local EMS agency.

SEC. 7. Section 1797.59 is added to the Health and Safety Code, to read:

1797.59. "Base hospital physician" or "BHP" means a physician and surgeon who is currently licensed in California, who is assigned to the emergency department of a base hospital, and who has been trained to issue advice and instructions to prehospital emergency medical care personnel consistent with statewide guidelines established by the authority. Nothing in this section shall be deemed to abridge or restrict the duties or functions of a physician and surgeon as otherwise provided by law.

SEC. 8. Section 1797.74 of the Health and Safety Code is amended to read:

1797.74. "Emergency medical services area" or "EMS area" means the geographical area within the jurisdiction of the designated local EMS agency.

SEC. 9. Section 1797.97 is added to the Health and Safety Code, to read:

1797.97. "Poison control center" or "PCC" means a hospital-based facility or other facility which, as a minimum, provides information and advice regarding the management of individuals who have or may have ingested or otherwise been exposed to poisonous or possibly toxic substances, and which has been designated by the local EMS agency according to the standards prescribed by this part.

SEC. 10. Section 1797.106 of the Health and Safety Code is amended to read:

1797.106. (a) Regulations, standards, and guidelines adopted by the authority and by local EMS agencies pursuant to the provisions of this part shall not prohibit hospitals which contract with group practice prepayment health care service plans from providing necessary medical services for the members of those plans.

(b) Regulations, standards, and guidelines adopted by the authority and by local EMS agencies pursuant to the provisions of this part shall provide for the transport and transfer of a member of a group practice prepayment health care service plan to a hospital that contracts with the plan when the base hospital determines that the condition of the member permits the transport or when the condition of the member permits the transfer, except that when the dispatching agency determines that the transport by a transport unit would unreasonably remove the transport unit from the area, the member may be transported to the nearest hospital capable of

treating the member.

SEC. 11. Section 1797.170 of the Health and Safety Code is amended to read:

1797.170. The authority shall establish minimum standards and promulgate regulations for the training and scope of practice for EMT-I. Any individual certified as an EMT-I pursuant to this act shall be recognized as an EMT-I on a statewide basis, and recertification shall be based on statewide standards.

SEC. 12. Section 1798 of the Health and Safety Code is amended to read:

1798. (a) The medical direction and management of an emergency medical services system shall be under the medical control of the medical director of the local EMS agency. This medical control shall be maintained in the following manner:

(1) Prospectively by written medical policies and procedures to provide standards for patient care.

(2) Immediately by direct voice communication between a certified EMT-P or EMT-II and a base hospital emergency physician or an authorized registered nurse and, in the event of temporary unavailability of voice communications, by utilization by an EMT-P or EMT-II of authorized, written orders and policies established pursuant to Section 1798.4.

(3) Retrospectively by means of medical audit of field care and continuing education.

(b) Medical control shall be within an EMS system which complies with the minimum standards adopted by the authority, and which is established and implemented by the local EMS agency.

SEC. 13. Section 1798.2 of the Health and Safety Code is amended to read:

1798.2. The base hospital shall implement the policies and procedures of the local EMS agency for medical direction of prehospital limited advanced life support personnel and advanced life support personnel.

SEC. 14. Section 1798.4 of the Health and Safety Code is amended to read:

1798.4. (a) Whenever voice contact with a base hospital cannot be established and whenever a delay in care would jeopardize the life of the patient, the initiation of limited advanced life support or advanced life support procedures shall be authorized by the written standing orders approved by the medical director of the local EMS agency.

(b) In each instance where limited advanced life support or advanced life support procedures are initiated without voice contact with a base hospital, immediately upon ability to make voice contact, the EMT-II or EMT-P who has initiated such procedures shall make a verbal report to the base hospital emergency physician or authorized registered nurse. A written report shall be filed, when possible, immediately upon delivery of the patient to a hospital, but in no case shall the filing of the report be delayed more than 24 hours.

The report shall contain the reason or reasons or suspected reason or reasons the communications equipment failed to function and the emergency medical procedures initiated and maintained, including, but not limited to, evaluation of the patient, treatment decisions, and responses to treatment by the patient. The base hospital emergency physician shall evaluate this report and forward the report and evaluation to the medical director of the local EMS agency within 72 hours.

SEC. 15. The heading of Article 1 (commencing with Section 1798.100) of Chapter 6 of Part 1 of Division 2.5 of the Health and Safety Code is amended to read:

Article 1. Base Hospitals

SEC. 16. Section 1798.100 of the Health and Safety Code is amended to read:

1798.100. In administering advanced life support or limited advanced life support, a local EMS agency may designate or contract with hospitals within its area of jurisdiction to be base hospitals. Hospitals so designated or contracted with as base hospitals shall provide medical direction of the advanced life support or limited advanced life support for the area defined by the local EMS agency in accordance with policies and procedures established by the local EMS agency pursuant to Section 1798.

SEC. 17. Section 1798.102 of the Health and Safety Code is amended to read:

1798.102. The base hospital shall supervise prehospital treatment, triage, and transport, advanced life support or limited advanced life support, and monitor personnel program compliance by direct medical supervision.

SEC. 18. Section 1798.104 of the Health and Safety Code is amended to read:

1798.104. The base hospital shall provide, or cause to be provided, EMS prehospital personnel training and continuing education in accordance with local EMS policies and procedures.

SEC. 19. Article 4 (commencing with Section 1798.180) is added to Chapter 6 of Part 1 of Division 2.5 of the Health and Safety Code, to read:

Article 4. Poison Control Centers

1798.180. The authority shall establish minimum standards for the designation and operation of poison control centers.

SEC. 20. Section 1799.2 of the Health and Safety Code is amended to read:

1799.2. The commission shall consist of 14 members appointed as *follows:*

(a) One full-time physician and surgeon, whose primary practice is emergency medicine, appointed by the Senate Rules Committee

from a list of three names submitted by the California Chapter of the American College of Emergency Physicians.

(b) One physician and surgeon, who is a trauma surgeon, appointed by the Speaker of the Assembly from a list of three names submitted by the California Chapter of the American College of Surgeons.

(c) One physician and surgeon appointed by the Senate Rules Committee from a list of three names submitted by the California Medical Association.

(d) One county health officer appointed by the Governor from a list of three names submitted by the California Conference of Local Health Officers.

(e) One full-time registered nurse, who is employed as an authorized registered nurse in a base station hospital, appointed by the Governor from a list of three names submitted by the Emergency Department Nurses Association.

(f) One full-time paramedic or EMT-II, who is not employed as a full-time peace officer, appointed by the Senate Rules Committee from a list of three names submitted by the California Rescue and Paramedic Association.

(g) One prehospital emergency medical service provider from the private sector, appointed by the Speaker of the Assembly from a list of three names submitted by the California Ambulance Association.

(h) One management member of an entity providing fire protection and prevention services appointed by the Governor from a list of three names submitted by the California Fire Chiefs Association.

(i) One medical director of a local EMS agency appointed by the Speaker of the Assembly.

(j) One hospital administrator of a base hospital who is appointed by the Governor from a list of three names submitted by the California Hospital Association.

(k) One full-time peace officer, who is either an EMT-II or a paramedic, who is appointed by the Governor from a list of three names submitted by the California Peace Officers Association.

(*l*) Three public members who have experience in local EMS policy issues, at least one of whom resides in a rural area as defined by the authority, and who are appointed by the Governor.

SEC. 21. Section 402 of the Penal Code is amended to read:

402. Every person who goes to the scene of an emergency, or stops at the scene of an emergency, for the purpose of viewing the scene or the activities of police officers, firefighters, emergency medical, or other emergency personnel, or military personnel coping with the emergency in the course of their duties during the time it is necessary for emergency vehicles or those personnel to be at the scene of the emergency or to be moving to or from the scene of the emergency for the purpose of protecting lives or property, unless it is part of the duties of that person's employment to view that scene

or activities, and thereby impedes police officers, firefighters, emergency medical, or other emergency personnel or military personnel, in the performance of their duties in coping with the emergency, is guilty of a misdemeanor.

For the purposes of this section, an emergency includes a condition or situation involving injury to persons, damage to property, or peril to the safety of persons or property, which results from a fire, an explosion, an airplane crash, flooding, windstorm damage, a railroad accident, a traffic accident, a power plant accident, a toxic chemical or biological spill, or any other natural or human-caused event.

SEC. 22. Section 11165 of the Penal Code is amended to read:

11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual assault" means conduct in violation of the following sections of the Penal Code: Sections 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivisions (a) and (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), and Sections 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), and 647a (child molestation).

(c) "Neglect" means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.

(1) "Severe neglect" means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. "Severe neglect" also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, as proscribed by subdivision (d), including the intentional failure to provide adequate food, clothing, or shelter.

(2) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, or supervision where no physical injury to the child has occurred.

For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16508 of the Welfare and Institutions Code or not receiving specified medical treatment for religious reasons, shall not for that reason alone be considered a neglected child.

(d) "Willful cruelty or unjustifiable punishment of a child" means a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered.

(e) "Corporal punishment or injury" means a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition.

(f) "Abuse in out-of-home care" means situations of physical injury on a child which is inflicted by other than accidental means, or of sexual assault or neglect or the willful cruelty or unjustifiable punishment of a child, as defined in this article, where the person responsible for the child's welfare is a foster parent or the administrator or an employee of a public or private residential home, school, or other institution or agency.

(g) "Child abuse" means a physical injury which is inflicted by other than accidental means on a child by another person. "Child abuse" also means the sexual assault of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). "Child abuse" also means the neglect of a child or abuse in out-of-home care, as defined in this article.

(h) "Child care custodian" means a teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; a licensed day care worker; an administrator of a community care facility licensed to care for children; headstart teacher; a licensing worker or licensing evaluator; public assistance worker; employee of a child care institution including, but not limited to, foster parents, group home personnel and personnel of residential care facilities; a social worker or a probation officer.

(i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code or any Emergency Medical Technician I or II, or paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(j) "Nonmedical practitioner" means a state or county public health employee who treats a minor for venereal disease or any other condition; a coroner; a marriage, family, or child counselor; or a religious practitioner who diagnoses, examines, or treats children.

(k) "Child protective agency" means a police or sheriff's department, a county probation department, or a county welfare department.

(*l*) "Commercial film and photographic print processor" means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.

SEC. 23. Section 11165 of the Penal Code is amended to read:

11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual assault" means conduct in violation of the following sections of the Penal Code: Sections 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivisions (a) and (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), and Sections 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), and 647a (child molestation).

(c) "Neglect" means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.

(1) "Severe neglect" means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. "Severe neglect" also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, as proscribed by subdivision (d), including the intentional failure to provide adequate food, clothing, or shelter.

(2) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, or supervision where no physical injury to the child has occurred.

For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16508 of the Welfare and Institutions Code or not receiving specified medical treatment for religious reasons, shall not for that reason alone be considered a neglected child.

(d) "Willful cruelty or unjustifiable punishment of a child" means a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered.

(e) "Corporal punishment or injury" means a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition.

(f) "Abuse in out-of-home care" means situations of physical injury on a child which is inflicted by other than accidental means, or of sexual assault or neglect or the willful cruelty or unjustifiable punishment of a child, as defined in this article, where the person responsible for the child's welfare is a foster parent or the administrator or an employee of a public or private residential home, school, or other institution or agency.

(g) "Child abuse" means a physical injury which is inflicted by

other than accidental means on a child by another person. "Child abuse" also means the sexual assault of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). "Child abuse" also means the neglect of a child or abuse in out-of-home care, as defined in this article.

(h) "Child care custodian" means a teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; a licensed day care worker; an administrator of a community care facility licensed to care for children; headstart teacher; a licensing worker or licensing evaluator; public assistance worker; employee of a child care institution including, but not limited to, foster parents, group home personnel and personnel of residential care facilities; a social worker or a probation officer.

(i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any Emergency Medical Technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, or a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.

(j) "Nonmedical practitioner" means a state or county public health employee who treats a minor for venereal disease or any other condition; a coroner; a marriage, family, or child counselor; or a religious practitioner who diagnoses, examines, or treats children.

(k) "Child protective agency" means a police or sheriff's department, a county probation department, or a county welfare department.

(*l*) "Commercial film and photographic print processor" means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.

SEC. 24. Section 11165 of the Penal Code is amended to read:

11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(1) "Sexual assault" means conduct in violation of one or more of the following sections of this code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647a (child molestation).

(2) "Sexual exploitation" refers to any of the following:

(A) Conduct involving matter depicting a minor engaged in obscene acts in violation of Section 311.2 (preparing, selling, or distributing obscene matter) or subdivision (a) of Section 311.4 (employment of minor to perform obscene acts).

(B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any parent or guardian of a child under his or her control who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving obscene sexual conduct for commercial purposes.

(C) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, videotape, negative, or slide in which a child is engaged in an act of obscene sexual conduct, except for those activities by law enforcement and prosecution agencies and other persons described in subdivisions (c) and (e) of Section 311.3.

(c) "Neglect" means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.

(1) "Severe neglect" means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. "Severe neglect" also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, as proscribed by subdivision (d), including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(2) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred.

For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16508 of the Welfare and Institutions Code or not receiving specified medical treatment for religious reasons, shall not for that reason alone be considered a neglected child. An informed and appropriate medical decision made by a parent or guardian after consultation with a physician or physicians who have examined the minor shall not constitute neglect.

(d) "Willful cruelty or unjustifiable punishment of a child" means a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes

or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered.

(e) "Corporal punishment or injury" means a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition.

(f) "Abuse in out-of-home care" means a situation of physical injury on a child which is inflicted by other than accidental means, or of sexual abuse or neglect or the willful cruelty or unjustifiable punishment of a child, as defined in this article, where the person responsible for the child's welfare is a foster parent or the administrator or an employee of a public or private residential home, school, or other institution or agency.

(g) "Child abuse" means a physical injury which is inflicted by other than accidental means on a child by another person. "Child abuse" also means the sexual abuse of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). "Child abuse" also means the neglect of a child or abuse in out-of-home care, as defined in this article.

(h) "Child care custodian" means a teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; a licensee, an administrator, or an employee of a community care facility licensed to care for children; headstart teacher; a licensing worker or licensing evaluator; public assistance worker; employee of a child care institution, including, but not limited to, foster parents, group home personnel and personnel of residential care facilities; a social worker or a probation officer.

(i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, or any Emergency Medical Technician I or II, or paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(j) "Nonmedical practitioner" means a state or county public health employee who treats a minor for venereal disease or any other condition; a coroner; a marriage, family, or child counselor; or a religious practitioner who diagnoses, examines, or treats children.

(k) "Child protective agency" means a police or sheriff's department, a county probation department, or a county welfare department.

(*l*) "Commercial film and photographic print processor" means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a

public agency.

SEC. 25. Section 11165 of the Penal Code is amended to read:

11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(1) "Sexual assault" means conduct in violation of one or more of the following sections of this code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647a (child molestation).

(2) "Sexual exploitation" refers to any of the following:

(A) Conduct involving matter depicting a minor engaged in obscene acts in violation of Section 311.2 (preparing, selling, or distributing obscene matter) or subdivision (a) of Section 311.4 (employment of minor to perform obscene acts).

(B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any parent or guardian of a child under his or her control who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving obscene sexual conduct for commercial purposes.

(C) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, videotape, negative, or slide in which a child is engaged in an act of obscene sexual conduct, except for those activities by law enforcement and prosecution agencies and other persons described in subdivisions (c) and (e) of Section 311.3.

(c) "Neglect" means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.

(1) "Severe neglect" means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. "Severe neglect" also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, as proscribed by subdivision (d), including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(2) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred.

For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16508 of the Welfare and Institutions Code or not receiving specified medical treatment for religious reasons, shall not for that reason alone be considered a neglected child. An informed and appropriate medical decision made by parent or guardian after consultation with a physician or physicians who have examined the minor shall not constitute neglect.

(d) "Willful cruelty or unjustifiable punishment of a child" means a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered.

(e) "Corporal punishment or injury" means a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition.

(f) "Abuse in out-of-home care" means a situation of physical injury on a child which is inflicted by other than accidental means, or of sexual abuse or neglect or the willful cruelty or unjustifiable punishment of a child, as defined in this article, where the person responsible for the child's welfare is a foster parent or the administrator or an employee of a public or private residential home, school, or other institution or agency.

(g) "Child abuse" means a physical injury which is inflicted by other than accidental means on a child by another person. "Child abuse" also means the sexual abuse of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). "Child abuse" also means the neglect of a child or abuse in out-of-home care, as defined in this article.

(h) "Child care custodian" means a teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; a licensee, an administrator, or an employee of a community care facility licensed to care for children; headstart teacher; a licensing worker or licensing evaluator; public assistance worker; employee of a child care institution including, but not limited to, foster parents, group home personnel and personnel of residential care facilities; a social worker or a probation officer.

(i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any Emergency Medical Technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, or a psychological assistant registered

pursuant to Section 2913 of the Business and Professions Code.

(j) "Nonmedical practitioner" means a state or county public health employee who treats a minor for venereal disease or any other condition; a coroner; a marriage, family, or child counselor; or a religious practitioner who diagnoses, examines, or treats children.

(k) "Child protective agency" means a police or sheriff's department, a county probation department, or a county welfare department.

(*l*) "Commercial film and photographic print processor" means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.

SEC. 26. (a) Section 23 of this bill incorporates amendments to Section 11165 of the Penal Code proposed by both this bill and AB 2702. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 11165 of the Penal Code, and (3) this bill is enacted after AB 2702, in which case Section 22 of this bill shall not become operative.

(b) Section 24 of this bill incorporates amendments to Section 11165 of the Penal Code proposed by both this bill and AB 2709. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 11165 of the Penal Code, and (3) this bill is enacted after AB 2709, in which case Section 11165 of the Penal Code, as amended by AB 2709, shall remain operative only until the operative date of this bill, at which time Section 24 of this bill shall become operative, and Section 22 of this bill shall not become operative.

(c) Section 25 of this bill incorporates amendments to Section 11165 of the Penal Code proposed by this bill, AB 2702, and AB 2709. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1985, (2) all three bills amend Section 11165 of the Penal Code, and this bill is enacted after AB 2702 and AB 2709, in which case Section 11165 of the Penal Code, as amended by AB 2709, shall remain operative only until the operative date of this bill, at which time Section 25 of this bill shall become operative, in which case Sections 22, 23, and 24 shall not become operative.

CHAPTER 1392

An act to add and repeal Chapter 9.5 (commencing with Section 60350) of Division 2 of Title 6 of the Government Code, relating to local government.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Chapter 9.5 (commencing with Section 60350) is added to Division 2 of Title 6 of the Government Code, to read:

CHAPTER 9.5. CALIFORNIA SPECIAL DISTRICT CONSOLIDATION ASSISTANCE PROGRAM

60350. This chapter is known and may be cited as the California Special District Consolidation Assistance Act.

60351. The Legislature finds and declares that it is in the best interests of the people of the state, and of primary importance to the safety of persons and property throughout California, to establish a program to enable counties to assist special districts to develop and implement plans to consolidate their services.

60352. The board of supervisors of any county may participate in the program created by this chapter by adopting an ordinance implementing the provisions of this chapter.

60353. The board of supervisors in a participating county may make loans to districts, which apply as defined by Section 56039, pursuant to this chapter to pay for the costs of any of the following:

(a) Studies to determine the feasibility of reducing the costs of districts through consolidation, merger, or reorganization.

(b) Any fees charged pursuant to Sections 54776.3 and 56133 needed to carry out the results of the studies conducted pursuant to subdivision (a).

(c) Any expenses incurred pursuant to Sections 54790.1 and 56470 needed to carry out the results of studies conducted pursuant to subdivision (a).

60354. The board of supervisors shall develop the procedure to be followed by special districts to submit applications and the criteria for evaluating those loan applications and awarding loans.

60355. The board of supervisors shall determine after public hearing which applications by districts for loans shall be approved based on the criteria established pursuant to Section 60354.

60356. The board of supervisors may cancel the repayment of any loan made pursuant to this chapter for special districts which successfully complete a consolidation, merger, or reorganization. If the board of supervisors cancels a loan, it shall be considered a grant and no repayment shall be required.

60357. All funds received from the Special District Augmentation Fund pursuant to subdivision (d) of Section 98.6 of the Revenue and Taxation Code shall be placed in a special account in the general fund of the county. The county shall use these funds exclusively for the purposes of this chapter and not for any general county expenses. The balance in the special account shall not exceed the following:

(a) Two percent of the Special District Augmentation Fund in the current fiscal year for counties with a population of 6,000,000 or more according to the last federal decennial census.

(b) Three percent of the Special District Augmentation Fund in the current fiscal year for all other counties.

60358. This chapter shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date. The unencumbered balance remaining in any special account created pursuant to this chapter on the date this chapter is repealed shall revert to the Special District Augmentation Fund.

CHAPTER 1393

An act to amend Section 4010.2 of the Health and Safety Code, relating to water.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 4010.2 of the Health and Safety Code is amended to read:

4010.2. This chapter does not apply to a public water system which meets all of the following conditions:

(a) Consists only of distribution and storage facilities and does not have any collection and treatment facilities.

(b) Obtains all of its water from, but is not owned or operated by, a public water system to which this chapter applies.

(c) Does not sell water to any person or user, except for the sale of water to users pursuant to Section 2705.5 of the Public Utilities Code through a submetered service system; provided, that the water supply is obtained from a public water system to which this chapter applies.

By enacting this subdivision, it is not the intent of the Legislature to change existing law as to responsibility or liability for distribution systems beyond the mastermeter.

CHAPTER 1394

An act to add Section 5314.5 to the Public Utilities Code, relating to carriers.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 5314.5 is added to the Public Utilities Code, to read:

5314.5. Every corporation or person who knowingly and willfully issues, publishes, or affixes, or causes or permits the issuance, publishing, or affixing, of any oral or written advertisement, broadcast, or other holding out to the public, or any portion thereof, that the corporation or person is in operation as a household goods carrier without having a valid permit issued under this chapter is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000).

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

CHAPTER 1395

An act to add and repeal Chapter 8 (commencing with Section 51400) to Part 3 of Division 31 of the Health and Safety Code, relating to the California Housing Finance Agency, and making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Chapter 8 (commencing with Section 51400) is added to Part 3 of Division 31 of the Health and Safety Code, to read:

CHAPTER 8. TAXABLE SECURITIES

51400. The Legislature finds and declares that it is essential to the economic growth of the state and the supply of adequate residential housing in the state and that it is a public purpose to expand the program of the agency of purchasing and selling residential mortgage loans for which all California families may be eligible. The Legislature also finds and declares that it is a public purpose to create procedures through which the agency may issue mortgage-backed securities to finance these purchases for sale to pension funds,

institutional investors, and individuals.

51401. Notwithstanding any other provision of this division, as used in this chapter:

(a) "Residence" means any existing structure of one to four dwelling units or any work or undertaking of one to four dwelling units of new construction, improvement, or rehabilitation for the provision of housing.

(b) "Residential mortgage loan" means a mortgage loan secured by a mortgage on a residence.

(c) "Taxable securities" means securities bearing interest that is otherwise taxable under the personal income tax provisions of state and federal tax law and which are issued to finance the purchase or making of residential mortgage loans pursuant to this chapter.

51402. (a) Notwithstanding any other provision of this division, the agency may establish a residential mortgage loan program. Under the residential mortgage loan program, the agency may acquire or make first or second mortgage loans for the construction, purchase, improvement, or rehabilitation of residences.

(b) The agency may invest in, make, purchase, take assignments of, or otherwise acquire or make commitments to invest in, make, purchase, take assignments, or otherwise acquire any residential mortgage loan or partial interest or participation therein. The agency may sell, assign, or otherwise dispose of, or enter into commitments to sell, assign, or otherwise dispose of, any obligation, residential mortgage loan, or partial interest or participation therein, or create pools of obligations, residential mortgage loans, or partial interest or participations held by the agency, and issue and sell securities backed by pools. The agency may require the seller of obligations, residential mortgage loans, or partial interest or participations purchased by the agency, to use the proceeds of the sale for the purpose of financing residential mortgage loans, except when the proceeds arise from the sale of new loans, initiated for the purpose of sale to the agency or others. The agency may pledge residential mortgage loans, acquired pursuant to the residential mortgage loan program, to pay the principal, interest, and redemption premium, if any, on taxable securities issued by the agency for the residential mortgage loan program.

51403. (a) The agency may, from time to time, issue its taxable securities in whatever principal amount the agency determines is necessary to provide sufficient funds for the acquisition or making of residential mortgage loans and for the payment of interest on the securities, establishment of reserves to secure the securities, and other expenditures of the agency incident to, and necessary or convenient to, issuance of the securities, and the purchase or sale of residential mortgage loans in accordance with this chapter.

(b) Notwithstanding any provision of this division, taxable securities issued pursuant to this chapter shall not be subject to any limitation of aggregate principal amount outstanding at any time. The securities shall not be taken into account for purposes of the

limitation on indebtedness of the agency contained in Section 51350, or any other limitation on the amount of securities of the agency which at any time may be issued or which may be outstanding.

(c) Any taxable securities issued pursuant to this chapter shall not be a general obligation of the agency, shall not be secured in whole or in part by the Supplementary Bond Security Account established pursuant to Section 51368, and shall be payable solely from the receipts, revenues, or other income derived in respect of residential mortgage loans or securities purchased or sold pursuant to this chapter. Any official statement or other prospectus used by the agency in offering taxable securities for sale shall clearly indicate that the securities are not the debt or obligation of the state or of the agency except to the extent provided in this section.

(d) All proceeds received by the agency pursuant to this chapter shall be deposited in the Taxable Securities Account which is hereby created in the California Housing Finance Fund. Any moneys appropriated to the agency for the purposes of this chapter shall be deposited in the Taxable Securities Account and shall be repaid from revenues received by the agency pursuant to this chapter.

51404. This chapter shall remain in effect until December 31, 1987, and as of that date is repealed unless a later enacted statute extends or eliminates that date.

CHAPTER 1396

An act to add Section 26569.4 to the Health and Safety Code, relating to fish.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984]

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

SECTION 1. Section 26569.4 is added to the Health and Safety Code, to read:

26569.4. (a) The state department may adopt regulations which name and describe the characteristics of salmon and any other fish or other seafood it considers appropriate. The state department shall consult with the Department of Fish and Game, the Joint Committee on Fisheries and Aquaculture, consumers, commercial fishermen, aquaculturists, and seafood processors, wholesalers, restaurateurs, and other retailers before adopting these regulations. The state department shall not adopt any regulation that conflicts with the common name of any fish designated by the Department of Fish and Game pursuant to Section 8023 of the Fish and Game Code.

(b) In addition to the consultations required by subdivision (a), the state department shall consult and seek the recommendations of the groups named in that subdivision concerning the possible need

for, or desirability of, any further legislation or regulations affecting seafood labeling. The state department shall report to the Legislature the results of the consultations required by this subdivision, and make recommendations to the Legislature concerning any legislation it considers appropriate, on or before January 1, 1986.

(c) No regulation adopted pursuant to this section shall deviate from a pertinent United States standard where the fish or seafood product specified is packed or processed as a standardized product under a United States standard.

(d) Nothing in this section or in regulations adopted pursuant to this section shall be construed to require the use of more than the common family name of any fish or seafood by any restaurant in menus or advertisements.

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

CHAPTER 1397

An act to add Sections 749 and 749.5 to the Code of Civil Procedure, to amend Section 27366 of, to add Sections 8214.2 and 8227.3 to, and to add and repeal Section 8200.5 of, the Government Code and to amend Section 115 of, and to add Section 115.5 to, the Penal Code, relating to documents.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 749 is added to the Code of Civil Procedure, to read:

749. (a) In an action for damages by a homeowner or trustor against a beneficiary of a trust deed on real property consisting of a single-family residence containing not more than four dwelling units, or against an assignee or successor in interest thereof, wherein it is established the trust deed was forged in whole or in part by the beneficiary, judgment may be entered for three times the amount at which the actual damages are assessed.

(b) An assignee or successor in interest of a beneficiary or a transferee of a prior assignee or of a prior successor in interest shall not be subject to treble damages unless it is established that the

person purchased or obtained the deed of trust with actual knowledge of the forgery of the deed of trust.

(c) This section shall not apply to any person who does not purchase and sell four or more deeds of trust in any calendar year.

(d) This section shall not limit or affect the availability of punitive damages, if any, to the injured party.

(e) This section shall apply to any action filed on or after July 1, 1983, provided that any action filed prior to the effective date of this section is pending at that time in the court of original jurisdiction.

SEC. 2. Section 749.5 is added to the Code of Civil Procedure, to read:

749.5. (a) In an action for damages by an assignee or a successor in interest against a beneficiary of a trust deed on real property consisting of a single-family residence containing not more than four dwelling units, wherein it is established the trust deed was forged in whole or in part by the beneficiary, judgment may be entered for three times the amount at which the actual damages are assessed.

(b) This section shall not apply to any person who does not purchase and sell four or more deeds of trust in any calendar year.

(c) This section shall not limit or affect the availability of punitive damages, if any, to the injured party.

(d) This section shall apply to any action filed on or after January 1, 1984.

SEC. 3. Section 8200.5 is added to the Government Code, to read:

8200.5. (a) The Secretary of State shall conduct a study on ways of redesigning the seal used by notaries public in the conduct of their official business.

(b) The purpose of the study shall be to determine more effective ways of preventing forgery in the use of the seal, to prevent unlawful procurement in the use of the seal, and to improve the legibility of the seal.

(c) The study shall investigate the feasibility of licensing and regulating private industry to manufacture and issue the seal as a means of obtaining the goals specified in subdivision (b).

(d) Among other things, the study shall investigate the feasibility of incorporating a sequential numbering system in the use of the notary's seal.

(e) The Secretary of State shall hold public hearings in conducting this study, and shall report its findings and recommendations to the Legislature on or before July 16, 1985.

(f) The Secretary of State shall also conduct a study on the status of the financial responsibility requirements on notaries public.

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

SEC. 4. Section 8214.2 is added to the Government Code, to read:

8214.2. A notary public who knowingly and willfully with intent to defraud performs any notarial act in relation to a deed of trust on real property consisting of a single-family residence containing not more than four dwelling units, with knowledge that the deed of trust

contains any false statements or is forged in whole or in part, is guilty of a felony.

SEC. 5. Section 8227.3 is added to the Government Code, to read:

8227.3. Any person who is not a duly commissioned, qualified, and acting notary public who does any of the acts prohibited by Section 8227.1 in relation to any document or instrument affecting title to, placing an encumbrance on, or placing an interest secured by a mortgage or deed of trust on, real property consisting of a single-family residence containing not more than four dwelling units, is guilty of a felony.

SEC. 6. Section 27366 of the Government Code is amended to read:

27366. The fee for any copy of any other record or paper on file in the office of the recorder, when the copy is made by the recorder, is one dollar ($1) for the first page and fifty cents ($0.50) for each additional page or portion thereof; provided, that page does not exceed 11 by 18 inches. The fee for photographic copies of pages exceeding 11 by 18 inches shall be one dollar and fifty cents ($1.50) for the first page and 80 cents ($0.80) for each additional page or portion thereof.

SEC. 7. Section 115 of the Penal Code is amended to read:

115. (a) Every person who knowingly procures or offers any false or forged instrument to be filed, registered, or recorded in any public office within this state, which instrument, if genuine, might be filed, or registered, or recorded under any law of this state or of the United States, is guilty of felony.

(b) For purposes of prosecution under this section, each act of procurement or of offering a false or forged instrument to be filed, registered, or recorded shall be considered a separately punishable offense.

SEC. 8. Section 115 of the Penal Code is amended to read:

115. Every person who knowingly procures or offers any false or forged instrument to be filed, registered, or recorded in any public office within this state, which instrument, if genuine, might be filed, registered, or recorded under any law of this state or of the United States, is guilty of felony.

(b) Each instrument which is procured or offered to be filed, registered, or recorded in violation of subdivision (a) shall constitute a separate violation of this section.

(c) Except in unusual cases where the interests of justice would best be served if probation is granted, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any of the following persons:

(1) Any person with a prior conviction under this section who is again convicted of a violation of this section in a separate proceeding.

(2) Any person who is convicted of more than one violation of this section in a single proceeding, with intent to defraud another, and where the violations resulted in a cumulative financial loss exceeding one hundred thousand dollars ($100,000).

For purposes of prosecution under this section, each act of procurement or of offering a false or forged instrument to be filed, registered, or recorded shall be considered a separately punishable offense.

SEC. 9. Section 115.5 is added to the Penal Code, to read:

115.5. (a) Every person who files any false or forged document or instrument with the county recorder which affects title to, places an encumbrance on, or places an interest secured by a mortgage or deed of trust on, real property consisting of a single-family residence containing not more than four dwelling units, with knowledge that the document is false or forged, is punishable, in addition to any other punishment, by a fine not exceeding seventy-five thousand dollars ($75,000).

(b) Every person who makes a false sworn statement to a notary public, with knowledge that the statement is false, to induce the notary public to perform an improper notarial act on an instrument or document affecting title to, or placing an encumbrance on, real property consisting of a single-family residence containing not more than four dwelling units is guilty of a felony.

SEC. 10. The Department of Real Estate, the State Banking Department, the Department of Savings and Loan, and the Secretary of State shall notify licensees under their jurisdiction of this act in the course of normal correspondence with those licensees.

SEC. 11. Section 8 of this bill incorporates amendments to Section 115 of the Penal Code proposed by both this bill and SB 2227. It shall become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 115 of the Penal Code, and (3) this bill is enacted after SB 2227, in which case Section 7 of this bill shall not become operative.

SEC. 12. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1398

An act to add Sections 30265 and 30265.5 to the Public Resources Code, relating to offshore oil transportation.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 30265 is added to the Public Resources Code, to read:

30265. The Legislature finds and declares all of the following:

(a) Offshore oil production will increase dramatically in the next 10 years from the current 80,000 barrels per day to over 400,000 barrels per day.

(b) Transportation studies have concluded that pipeline transport of oil is generally both economically feasible and environmentally preferable to other forms of crude oil transport.

(c) Oil companies have proposed to build a pipeline to transport offshore crude oil from central California to southern California refineries, and to transport offshore oil to out-of-state refiners.

(d) California refineries would need to be retrofitted if California offshore crude oil were to be used directly as a major feedstock. Refinery modifications may delay achievement of air quality goals in the southern California air basin and other regions of the state.

(e) The County of Santa Barbara has issued an Oil Transportation Plan which assesses the environmental and economic differences among various methods for transporting crude oil from offshore California to refineries.

(f) The Governor should help coordinate decisions concerning the transport and refining of offshore oil in a manner which considers state and local studies undertaken to date, which fully addresses the concerns of all affected regions, and which promotes the greatest benefits to the people of the state.

SEC. 2. Section 30265.5 is added to the Public Resources Code, to read:

30265.5. (a) The Governor, or the Governor's designee, shall coordinate activities concerning the transport and refining of offshore oil. Coordination efforts shall consider public health risks, the ability to achieve short- and long-term air emission reduction goals, the potential for reducing California's vulnerability and dependence on oil imports, economic development and jobs, and other factors deemed important by the Governor, or the Governor's designee.

(b) The Governor, or the Governor's designee, shall work with state and local agencies, and the public, to facilitate the transport and refining of offshore oil in a manner which will promote the greatest public health and environmental and economic benefits to the people of the state.

(c) The Governor, or the Governor's designee, shall consult with any individual or organization having knowledge in this area, including, but not limited to, representatives from the following:

(1) State Energy Resources Conservation and Development Commission.

(2) State Air Resources Board.

(3) California Coastal Commission.

(4) Department of Fish and Game.
(5) State Lands Commission.
(6) Public Utilities Commission.
(7) Santa Barbara County.
(8) Santa Barbara County Air Pollution Control District.
(9) Southern California Association of Governments.
(10) South Coast Air Quality Management District.
(11) Oil industry.
(12) Public interest groups.
(13) United States Department of the Interior.
(14) United States Department of Energy.
(15) United States Environmental Protection Agency.
(16) National Oceanic and Atmospheric Administration.
(17) United States Coast Guard.

(d) This act is not intended, and shall not be construed, to decrease, duplicate, or supersede the jurisdiction, authority, or responsibilities of any local government, or any state agency or commission, to discharge its responsibilities concerning the transportation and refining of oil.

CHAPTER 1399

An act to add Sections 8855.5 and 8855.8 to the Government Code, and to amend Sections 51335 and 52080 of the Health and Safety Code, relating to housing.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 8855.5 is added to the Government Code, to read:

8855.5. (a) Any redevelopment agency which issues revenue bonds to finance residential construction pursuant to Chapter 8 (commencing with Section 33750) of Part 1 of Division 24 of the Health and Safety Code, any local agency which issues bonds to finance residential rehabilitation pursuant to the Marks-Foran Residential Rehabilitation Act of 1973 (Part 13 (commencing with Section 37910), Division 24, Health and Safety Code), and any city or county which issues bonds for purposes of a home financing program carried on pursuant to Chapter 1 (commencing with Section 52000) to Chapter 6 (commencing with Section 52060), inclusive, of Part 5 of Division 31 of the Health and Safety Code or for purposes of financing the construction or development of multifamily rental housing pursuant to Chapter 7 (commencing with Section 52075) of Part 5 of Division 31 of the Health and Safety Code, shall report to the California Debt Advisory Commission the

incomes, family size, and rents or mortgage payments of the initial occupants; the number, size, cost, sales price, and geographical distribution of the units developed; the length of time the units are required to be held for occupancy by targeted income groups, and, if applicable, the number of years the units are required to be held as rentals; and the distribution of housing developments among for-profit, limited dividend, and nonprofit sponsors.

(b) The information required to be reported by subdivision (a) shall be reported at least annually during the time that a percentage of the units are required to be occupied by, or made available to, persons or families within a particular income group.

(c) The failure of any entity to report the information required by subdivision (a) shall not affect the validity of the issuance of any of the bonds issued under the authority of any of the provisions described in subdivision (a).

(d) The report required by subdivision (a) shall only apply to housing units financed with the proceeds of bonds that are authorized to be issued, and which are issued, on and after January 1, 1985, pursuant to any of the provisions described in subdivision (a).

The redevelopment agency, local agency, or city and county may charge a fee to the recipient of agency financing not to exceed the cost of making the reports required by this section.

SEC. 2. Section 8855.8 is added to the Government Code, to read:

8855.8. The commission shall compile and summarize the information reported to the commission pursuant to Section 8855.5 and issue that summary to the Legislature and the Legislative Analyst on or before October 1, 1985, and each year thereafter that such information is received by the commission.

SEC. 3. Section 51335 of the Health and Safety Code is amended to read:

51335. (a) Not less than 20 percent of the total number of units in a multifamily rental housing development financed, or for which financing has been extended or committed, pursuant to this chapter from the proceeds of sale of each bond issuance of the agency shall be for occupancy on a priority basis by lower income households, as defined in Section 50079.5. In the case of a multifamily rental housing development located within a targeted area project, as defined by Section 1103(b) of Public Law 96-499, a part of the federal Mortgage Subsidy Bond Tax Act of 1980, not less than 15 percent of the total number of units financed, or for which financing has been extended or committed pursuant to this chapter, shall be for occupancy on a priority basis by lower income households. To the extent feasible, as determined in the sole discretion of the agency, and whose decision shall be final and conclusive, half of the reserved units shall be for occupancy on a priority basis by individuals and families whose adjusted gross income does not exceed 50 percent of the median adjusted gross income for the area, as median adjusted gross income may, from time to time, be determined pursuant to Section 8 of the United States Housing Act of 1937. In determining the feasibility of

meeting this requirement, the agency shall consider the availability of rent subsidies or other financial aid from the federal or state government.

The local agency issuing permits for the development of the multifamily rental housing development shall consider opportunities to contribute to the economic feasibility of the units through reductions in construction and design requirements, by making provision for density bonuses, by providing for expedited processing, and by making provision for other financial incentives for the multifamily rental housing development.

The agency shall require the housing sponsor to accept as tenants, on the same basis as all other prospective tenants, lower income households who are recipients of federal certificates for rent subsidies pursuant to the existing program under Section 8 of the United States Housing Act of 1937 or its successor.

The agency shall not permit a selection criteria to be applied to Section 8 certificate holders that is any more burdensome than the criteria applied to all other prospective tenants.

(b) As a condition of financing pursuant to this chapter, the housing sponsor shall enter into a regulatory agreement with the agency providing that units reserved for occupancy by lower income households remain available on a priority basis for occupancy for the period required by the Internal Revenue Code of 1954. The regulatory agreement shall contain a provision making the covenants and conditions of the agreement binding upon successors in interest of the housing sponsor. Such regulatory agreement shall be recorded in the office of the county recorder of the county in which the multifamily rental housing development is located.

(c) The agency shall give priority to processing construction loans and mortgage loans or may take other steps such as reducing loan fees for multifamily rental housing that contain units for occupancy by individuals and families whose adjusted gross income does not exceed 50 percent of the median adjusted gross income for the area, as determined pursuant to subdivision (a), or which provide substantial reductions in per unit cost, as determined by the agency, based on efficiency of design or the elimination of improvements that are not required by applicable building standards.

(d) At the option of the agency, the amendments to this section made by Chapter 907 of the Statutes of 1983 may be made applicable to any multifamily rental housing development financed by the issuance, on or after September 3, 1982, of bonds authorized by this chapter.

SEC. 4. Section 52080 of the Health and Safety Code is amended to read:

52080. (a) Not less than 20 percent of the total number of units in a multifamily rental housing development financed, or for which financing has been extended or committed, pursuant to this chapter from the proceeds of sale of each bond issuance of the city or county shall be for occupancy on a priority basis by individuals or families

whose adjusted gross income does not exceed 80 percent of the median adjusted gross income for the area, as adjusted gross income may from time to time be determined pursuant to Section 8 of the United States Housing Act of 1937. In the case of multifamily rental housing development located within a targeted area project, as defined by Section 1103(b) of P.L. 96-499, a part of the federal Mortgage Subsidy Bond Tax Act of 1980, not less than 15 percent of the total number of units financed, or for which financing has been extended or committed pursuant to this chapter, shall be for occupancy on a priority basis by those individuals or families. To the extent feasible, as determined in the sole discretion of the governing body of the issuing city or county, and whose determination shall be final and conclusive, at least one-half of these reserved units shall be for occupancy on a priority basis by individuals or families whose adjusted gross income does not exceed 50 percent of the median adjusted gross income for the area, as median adjusted gross income may from time to time be determined pursuant to Section 8 of the United States Housing Act of 1937. In determining the feasibility of meeting this requirement, the governing body shall consider the availability of rent subsidies or other financial aid from the federal or state government.

The local agency issuing permits for the development of the multifamily rental housing development shall consider opportunities to contribute to the economic feasibility of the units through reductions in construction and design requirements, by making provision for density bonuses, by providing for expedited processing, and by making provision for other financial incentives for the multifamily rental housing development.

The governing body of the issuing city or county shall require the housing sponsor to accept as tenants, on the same basis as all other prospective tenants, low-income tenants who are recipients of federal certificates for rent subsidies pursuant to the existing program under Section 8 of the United States Housing Act of 1937 or its successor.

The governing body shall not permit a selection criteria to be applied to Section 8 certificate holders that is more burdensome than the criteria applied to all other prospective tenants.

(b) As a condition of financing pursuant to this chapter, the housing sponsor shall enter into a regulatory agreement with the city or county providing that units reserved for occupancy by lower income households remain available on a priority basis for occupancy for the period required by Section 103(b)(12)(B) of the Internal Revenue Code of 1954. The regulatory agreement shall contain a provision making the covenants and conditions of the agreement binding upon successors in interest of the housing sponsor. The regulatory agreement shall be recorded in the office of the county recorder of the county in which the multifamily rental housing development is located.

(c) The governing body shall ensure that units occupied by

individuals and families whose adjusted gross incomes do not exceed 80 percent of the area median adjusted gross income shall be of comparable quality and offer a range of sizes and number of bedrooms comparable to those units which are available to other tenants.

(d) The city or county shall give priority to processing construction loans and mortgage loans or may take other steps such as reducing loan fees for multifamily rental housing that contain units for occupancy by individuals and families whose adjusted gross income does not exceed 50 percent of the median adjusted gross income for the area, as determined pursuant to subdivision (a), or which provide substantial reductions in per unit cost, as determined by the city or county, based on efficiency of design or the elimination of improvements that are not required by applicable building standards.

(e) At the option of the city or county, the amendments to this subdivision made by Chapter 907 of the Statutes of 1983 may be made applicable to any multifamily rental housing development financed by the issuance, on or after September 3, 1982, of bonds authorized by this chapter.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 1400

An act relating to parks and recreation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. The Legislature hereby finds and declares that a small portion of parkland owned by the City of Garden Grove, the legal description of which is Parcel 2 of Parcel Map 82-509 in the City of Garden Grove, County of Orange, State of California, as shown on a map filed in Book 175, pages 11 and 12 of Parcel Maps, in the office of the County Recorder of Orange County, is not needed to meet the park and recreation needs of persons residing in the neighborhood served by it.

Accordingly, notwithstanding the provisions of Chapter 9 (commencing with Section 38400) of Division 3 of Title 4 of the Government Code, or any other provision of law, the City of Garden

Grove may sell this property without an election, upon adoption of an ordinance declaring that, pursuant to this section, no election will be held.

Additionally, notwithstanding any provision of law, the land may be sold for valuable consideration without providing replacement parklands and the funds received by the city shall be deposited in the general fund thereof.

The Legislature finds and declares that this act involves circumstances that are unique to this particular portion of parkland in the City of Garden Grove for which a general law could not apply.

SEC. 2. Pursuant to subdivision (a) of Section 5626 of the Public Resources Code, the Weed Recreation and Park District is hereby authorized to sell or exchange to any public entity or private party a portion, not to exceed 10 acres, of the real property known as Lincoln Heights Park, which was acquired and developed with a grant of state funds appropriated in Item 235 of the Budget Act of 1979 (Chapter 259 of the Statutes of 1979) and pursuant to Department of Parks and Recreation project #NN-47-501, subject to all of the following conditions:

(a) The parcel and any improvements thereon shall be sold or exchanged for at least fair market value, and the sale or exchange shall be subject to the approval of the State Director of Parks and Recreation.

(b) All proceeds of the sale or exchange, excluding the costs of the sale or exchange, shall be expended only for the acquisition or development, or both, of park and recreation facilities at Lincoln Heights Park, subject to the approval of the Department of Parks and Recreation. Any proceeds not expended for this purpose shall be transmitted to the Department of Parks and Recreation for deposit in the Roberti-Z'Berg Urban Open-Space and Recreation Program Account in the General Fund.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to effectuate a minor sale for consideration of public parklands in the City of Garden Grove that are no longer necessary to meet the park and recreation needs of persons residing in the neighborhood served by it and to avoid a costly election, it is necessary this act take immediate effect.

CHAPTER 1401

An act to amend Sections 72252, 81370, 84313, and 87010 of, and to add Sections 72034, 72252.3, and 84313.5 to, the Education Code, to amend Section 4 of Chapter 343 of the Statutes of 1982, and to amend Section 19 of Chapter 1 of the 1983–84 Second Extraordinary Session, relating to community colleges, and making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 72034 is added to the Education Code, to read:

72034. Notwithstanding any provision of Chapter 366 of the Statutes of 1982, the terms of office of the members of the governing board of the Santa Monica Community College District whose terms were scheduled to expire in April 1985, expired in November 1984, and the terms of office of those members whose terms were scheduled to expire in April 1987, shall expire in November 1986.

The terms of the members elected in November of even-numbered years shall commence on the first Tuesday following that election, and those elected shall serve for a term of four years. Each member shall continue to serve until his or her successor in office is elected and qualified.

This section is declaratory of existing law.

SEC. 2. Section 72252 of the Education Code is amended to read:

72252. (a) Commencing with the semester, term, or quarter which begins after July 31, 1984, the governing board of each community college district shall charge each student a fee, pursuant to this section.

(b) The fee prescribed by this section shall equal fifty dollars ($50) per semester for students enrolled in classes totaling six or more credit semester units, and five dollars ($5) per unit per semester for students enrolled in classes totaling less than six credit semester units.

The chancellor shall proportionately adjust the amount of the fee for term lengths based upon a quarter system or other alternative system approved pursuant to Section 78002, and shall also proportionately adjust the amount of the fee for summer sessions, intersessions, and other short-term courses. In making these adjustments, the chancellor may round the per unit fee and the per term or per session fee to the nearest dollar.

(c) For the purposes of computing apportionments to community college districts, 98 percent of the revenues received by districts from charging a fee pursuant to this section or from fees defrayed pursuant to subdivision (f) shall be deemed to be local property tax

revenue within the meaning of subdivision (b) of Section 84700.

(d) The chancellor shall reduce apportionments by up to 10 percent to any district which does not collect the fees prescribed by this section.

(e) The fee requirement shall not apply to students enrolled in the noncredit courses designated by Section 84711, or to California State University or University of California students enrolled in remedial classes provided by a community college district on a campus of the University of California or a campus of the California State University, for whom the district claims an attendance apportionment pursuant to an agreement between the district and the California State University or the University of California.

(f) The fee requirements of this section shall be defrayed pursuant to Section 19 of Chapter 1 of the 1983–84 Second Extraordinary Session for any student who, at the time of enrollment, is a recipient of benefits under the Aid to Families with Dependent Children program, the Supplemental Security Income/State Supplementary Program, or a general assistance program.

(g) The requirements of Section 69534 shall apply to financial aid applicants enrolling in six or more credit semester units, but shall not apply to financial aid applicants who seek aid only for the fees required by this section and who enroll for less than six credit semester units. The chancellor shall prescribe a financial aid application for students enrolling in less than six credit semester units.

(h) The board of governors shall adopt regulations implementing this section as regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

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

SEC. 3. Section 72252.3 is added to the Education Code, to read:

72252.3. The governing board of a community college district may authorize a person to audit a community college course and may charge that person a fee pursuant to this section.

(a) If a fee for auditing is charged, it shall not exceed fifteen dollars ($15) per unit per semester.

The governing board shall proportionately adjust the amount of the fee for term lengths based upon a quarter system or other alternative system approved pursuant to Section 78002, and shall also proportionately adjust the amount of the fee for summer sessions, intersessions, and other short-term courses. In making these adjustments, the governing board may round the per unit fee and the per term or per session fee to the nearest dollar.

(b) Students enrolled in classes to receive credit for six or more semester credit units shall not be charged a fee to audit three or fewer semester units per semester.

(c) No student auditing a course shall be permitted to change his

or her enrollment in that course to receive credit for the course.

(d) Priority in class enrollment shall be given to students desiring to take the course for credit towards a degree or certificate.

(e) Classroom attendance of students auditing a course shall not be included in computing the apportionment due a community college district.

(f) The board of governors shall adopt any necessary regulations implementing this section as regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 4. Section 81370 of the Education Code is amended to read:

81370(a) At the time and place fixed in the resolution for the meeting of the governing body, all sealed proposals which have been received shall, in public session, be opened, examined, and declared by the board. Except as provided in subdivision (b), of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to sell or to lease and which are made by responsible bidders, the proposal which is the highest, after deducting therefrom the commission, if any, to be paid a licensed real estate broker in connection therewith, shall be finally accepted, unless a higher oral bid is accepted or the board rejects all bids.

(b) Notwithstanding subdivision (a), the governing board of any community college district may apply to the Board of Governors of the California Community Colleges for a waiver of the requirement that the governing board accept the highest responsible bid for the sale or lease of real property. The board of governors may grant a waiver pursuant to this subdivision if it determines that the waiver is in the best interests of the community college district.

SEC. 5. Section 84313 of the Education Code is amended to read:

84313. For each of three fiscal years, the Controller shall deduct from apportionments paid to a community college district pursuant to law, an amount not less than one-third of the amount actually allocated to the district pursuant to this article, together with amounts representing interest at a rate based on the most current investment rate of the Pooled Money Investment Account as of the date of the disbursement of funds to the district.

For each of three fiscal years, the amount deducted by the Controller pursuant to this section shall be reapportioned to Section B of the State School Fund for apportionment by the Chancellor of the California Community Colleges to community college districts to alleviate any deficits in state funding in the year in which the loan is made or during the period of repayment. Unless otherwise determined pursuant to Section 84313.5, the three year repayment period shall consist of three consecutive fiscal years commencing with the fiscal year following the year in which the emergency apportionment is made.

SEC. 6. Section 84313.5 is added to the Education Code, to read:

84313.5. Any community college district which has received an emergency apportionment pursuant to this article may request a

revision of the repayment schedule. The request shall be submitted to the Chancellor of the California Community Colleges with copies submitted to the county superintendent of schools within whose jurisdiction the district is located, the Joint Legislative Audit Committee, the Joint Legislative Budget Committee, and the Director of Finance. The request shall be accompanied by appropriate justification for any deferral of repayment, including a revision to the plan adopted by the district's governing board as specified in subdivision (a) of Section 84310, together with specified identification of the reasons that the actions taken by the district to correct the financial problems, as specified in subdivision (d) of Section 84310, will no longer accomplish their intended purpose.

The chancellor shall consult with representatives of the county superintendent of schools within whose jurisdiction the district is located, the Joint Legislative Audit Committee, the Joint Legislative Budget Committee, the Director of Finance, and representatives which the chancellor may select from the superintendents and presidents of the other community colleges and districts throughout the state. After consulting with these representatives, the chancellor may revise the repayment schedule, may forgive the interest payments otherwise compounded as a result of any deferral of payments, and may specify any conditions the chancellor determines are necessary to assure the repayment of the emergency apportionment. The chancellor shall report his or her actions to the Director of Finance, the Controller, and the Joint Legislative Budget Committee. The Controller shall deduct amounts from the apportionment schedule in accordance with the revised repayment plan.

SEC. 7. Section 87010 of the Education Code is amended to read:

87010. "Sex offense," as used in Sections 87290, 87335, 87405, 88022, and 88123, means any one or more of the offenses listed below:

(a) Any offense defined in Section 261.5, 266, 267, 285, 286, 288, 288a, or 647a, subdivision 2 or 3 of Section 261, or subdivision (a) or (d) of Section 647 of the Penal Code.

(b) Any offense defined in former subdivision 5 of former Section 647 of the Penal Code repealed by Chapter 560 of the Statutes of 1961, or any offense defined in former subdivision 2 of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961, if the offense defined in those sections was committed prior to September 15, 1961, to the same extent that such an offense committed prior to that date was a sex offense for the purposes of this section prior to September 15, 1961.

(c) Any offense defined in Section 314 of the Penal Code committed on or after September 15, 1961.

(d) Any offense defined in former subdivision 1 of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961 committed on or after September 7, 1955, and prior to September 15, 1961.

(e) Any offense involving lewd and lascivious conduct under

Section 272 of the Penal Code committed on or after September 15, 1961.

(f) Any offense involving lewd and lascivious conduct under former Section 702 of the Welfare and Institutions Code repealed by Chapter 1616 of the Statutes of 1961, if the offense was committed prior to September 15, 1961, to the same extent that such an offense committed prior to that date was a sex offense for the purposes of this section prior to September 15, 1961.

(g) Any offense defined in Section 286 or 288a of the Penal Code prior to the effective date of the amendment of either section enacted at the 1975–76 Regular Session of the Legislature committed prior to the effective date of the amendment.

(h) Any attempt to commit any of the above-mentioned offenses.

(i) Any offense committed or attempted in any other state which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses.

SEC. 8. Section 4 of Chapter 343 of the Statutes of 1982, as amended by Chapter 851 of the Statutes of 1983, is amended to read:

Sec. 4. (a) From funds appropriated to Section B of the State School Fund for the 1981–82 fiscal year, a sum not to exceed seven hundred fifty thousand dollars ($750,000) is hereby appropriated for allocation to the Compton Community College District for the 1982–83 fiscal year as an emergency apportionment pursuant to Article 2 (commencing with Section 84309) of Chapter 3 of Part 50 of the Education Code.

(b) Notwithstanding the three-year repayment period of Section 84313 of the Education Code, the Compton Community College District shall commence repayment of the emergency apportionment pursuant to subdivision (a) in the 1985–86 fiscal year. For each of the 1985–86, 1986–87, and 1987–88 fiscal years, the Controller shall deduct from apportionments to the Compton Community College District an amount not less than one-third of the amount actually allocated to the district pursuant to subdivision (a), together with amounts representing interest at a rate based on the most current investment rate of the Pooled Money Investment Account as of the date of the disbursement of funds to the district. Interest shall not be charged for the 1983–84 fiscal year.

(c) The effect of any deficit in the state general apportionments to community college districts in the 1981–82 fiscal year created by this reappropriation shall be excluded from the computation of community college district base revenues in the 1982–83 fiscal year.

SEC. 9. Section 19 of Chapter 1 of the 1983–84 Second Extraordinary Session is amended to read:

Sec. 19. (a) There is hereby appropriated the following sums to the Board of Governors of the California Community Colleges for the purpose of providing financial aid funds directly to low-income students who cannot afford to pay the fee specified in Section 72252 of the Education Code, and for the purpose of defraying fees pursuant to subdivision (f) of Section 72252:

Period	Amount
July 1, 1984 to June 30, 1985	$15,000,000
July 1, 1985 to June 30, 1986	15,000,000
July 1, 1986 to June 30, 1987	15,000,000
July 1, 1987 to January 1, 1988	7,500,000

(b) The chancellor shall allocate the funds appropriated by subdivision (a) to community college districts. In prescribing the manner of allocation, the chancellor shall endeavor to ensure that students with similar characteristics shall be treated similarly with respect to the provision of financial aid pursuant to this section, regardless of the community college they attend.

In allocating funds pursuant to this section, the chancellor shall consider the number of financial aid recipients in each district and the availability of federal and other state financial aid resources.

(c) Financial aid shall be provided pursuant to this section only to those students required to pay the fee specified in Section 72252 of the Education Code, and only in an amount equal to the fee actually charged the student pursuant to that section. In addition, the chancellor shall pay districts the amount of fees defrayed pursuant to subdivision (f) of Section 72252.

(d) Districts which receive an allocation of funds pursuant to this section shall utilize appropriate financial need criteria for the distribution of the funds. These criteria may include, but are not limited to, nationally accepted needs analysis methodologies, evidence of need based upon the receipt of public assistance, or other reasonable methods.

(e) The chancellor shall submit a plan made pursuant to subdivision (b) to the California Postsecondary Education Commission, the Legislative Analyst, and to the fiscal and education policy committees of each house of the Legislature by June 15, 1984.

The California Postsecondary Education Commission shall review the plan and submit its recommendations to the fiscal and education policy committees of each house of the Legislature.

(f) If the amount appropriated pursuant to this section exceeds the need for financial aid to students who cannot afford to pay the fee charged pursuant to Section 72252, the excess shall revert to the General Fund.

(g) If the amount needed for financial aid to students who cannot afford to pay the fee charged pursuant to Section 72252 and to pay districts for the total amount of fees defrayed pursuant to subdivision (f) of Section 72252 is greater than the amount appropriated by this section, the chancellor shall certify to the Department of Finance the amount of the additional funds which are required. Upon receipt of this certification, the Director of Finance shall take any administrative action available to him or her to transfer the additional funds, pursuant to the Budget Act or otherwise.

(h) If additional funds are needed to administer the financial aid

funds provided by this section for the 1984–85 fiscal year, the chancellor shall certify to the Department of Finance the amount of additional funds which are required. Upon receipt of this certification, the Director of Finance shall certify to the Controller the necessity for the additional funds. Upon receipt of the director's certification, the Controller shall transfer to the chancellor the additional amount needed, not to exceed two hundred thousand dollars ($200,000), from the amount appropriated by this section for the period of July 1, 1984, to June 30, 1985.

SEC. 10. (a) Consistent with subdivision (a) of Section 151.3 of Chapter 323 of the Statutes of 1983, the working drawings and site development phases of construction of the Los Angeles Mission College campus shall ultimately be funded with proceeds from the sale, lease, trade, or encumbrance of the surplus property held by the Los Angeles Community College District and known as the Northwest Valley site.

(b) The Legislature recognizes, however, that the Los Angeles Community College District may not be able to secure funds for that development from the Northwest Valley site during the 1984–85 fiscal year. It is therefore the intent of the Legislature to provide the Los Angeles Community College District with a loan from the Capital Outlay Fund for Public Higher Education to begin development of the campus in the 1984–85 fiscal year. It is further the intent of the Legislature that the loan be repaid by the district during the 1985–86 fiscal year.

(c) The sum of one million seven hundred thousand dollars ($1,700,000) is hereby appropriated from the Capital Outlay Fund for Public Higher Education to the Chancellor of the California Community Colleges for allocation to the Los Angeles Community College District as a loan for the development of Los Angeles Mission College. This loan amount, together with an amount representing interest at a rate equal to the most current investment rate of the Pooled Money Investment Account as of the date of disbursement of the funds to the district, shall be repaid to the Capital Outlay Fund for Public Higher Education not later than June 30, 1986. The chancellor shall withhold from the regular apportionment due the Los Angeles Community College District any unpaid balance remaining from this loan after June 30, 1986.

CHAPTER 1402

An act to amend Section 25402 of the Public Resources Code, relating to energy appliance standards.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 25402 of the Public Resources Code is amended to read:

25402. The commission shall, after one or more public hearings, do all of the following, in order to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy:

(a) Prescribe, by regulation, lighting, insulation climate control system, and other building design and construction standards which increase the efficiency in the use of energy for new residential and new nonresidential buildings. The standards shall be cost-effective, when taken in their entirety, and when amortized over the economic life of the structure when compared with historic practice. The commission shall periodically update the standards and adopt any revision which, in its judgment, it deems necessary. Six months after the commission certifies an energy conservation manual pursuant to subdivision (c) of Section 25402.1, no city, county, city and county, or state agency shall issue a permit for any building unless the building satisfies the standards prescribed by the commission pursuant to this subdivision or subdivision (b) of this section which are in effect on the date an application for a building permit is filed.

(b) Prescribe, by regulation, energy conservation design standards for new residential and new nonresidential buildings. The standards shall be performance standards and shall be promulgated in terms of energy consumption per gross square foot of floorspace, but may also include devices, systems, and techniques required to conserve energy. The standards shall be cost-effective when taken in their entirety, and when amortized over the economic life of the structure when compared with historic practices. The commission shall periodically review the standards and adopt any revision which, in its judgment, it deems necessary. A building that satisfies the standards prescribed pursuant to this subdivision need not comply with the standards prescribed pursuant to subdivision (a) of this section. The commission shall comply with the provisions of this subdivision before January 1, 1981.

(c) (1) Prescribe, by regulation, standards for minimum levels of operating efficiency, based on a reasonable use pattern, and may prescribe other cost-effective measures, including incentive programs, fleet averaging, energy consumption labelling not preempted by federal labelling, and consumer education programs, to promote the use of energy efficient appliances whose use, as determined by the commission, requires a significant amount of energy on a statewide basis. The minimum levels of operating efficiency shall be based on feasible and attainable efficiencies or feasible improved efficiencies which will reduce the electrical energy consumption growth rate. The standards shall become effective no sooner than one year after the date of adoption or revision. No new appliance manufactured on or after the effective

date of the standards may be sold or offered for sale in the state, unless it is certified by the manufacturer thereof to be in compliance with the standards. The standards shall be drawn so that they do not result in any added total costs to the consumer over the designed life of the appliances concerned.

(2) No new appliance, except for any plumbing fitting, regulated under paragraph (1), which is manufactured on or after July 1, 1984, may be sold, or offered for sale, in the state, unless the date of the manufacture is permanently displayed in an accessible place on that appliance.

(3) During the period of five years after the commission has adopted a standard for a particular appliance, under paragraph (1), no increase or decrease in the minimum level of operating efficiency required by the standard for that appliance shall become effective, unless the commission adopts other cost-effective measures for that appliance.

(4) Neither the commission nor any other state agency shall take any action to decrease any standard adopted under this subdivision on or before June 30, 1985, prescribing minimum levels of operating efficiency or other energy conservation measures for any appliance, unless the commission finds by a four-fifths vote that such a decrease is of benefit to ratepayers, and that there is significant evidence of changed circumstances. Prior to January 1, 1986, the commission shall not take any action to increase any standard prescribing minimum levels of operating efficiency for any appliance or adopt any new standard under paragraph (1). Prior to January 1, 1986, any appliance manufacturer doing business in this state shall provide directly, or through an appropriate trade or industry association, information, as specified by the commission after consultation with manufacturers doing business in the state and appropriate trade or industry associations on sales of appliances so that the commission may study the effects of regulations on those sales. These informational requirements shall remain in effect until the information is received. The trade or industry association may submit sales information in an aggregated form in a manner that allows the commission to carry out the purposes of the study. The commission shall treat any sales information of an individual manufacturer as confidential and that information shall not be a public record. The commission shall not request any information that cannot be reasonably produced in the exercise of due diligence by the manufacturer. At least one year prior to the adoption or amendment of a standard for an appliance, the commission shall notify the Legislature of its intent, and the justification therefor, to adopt or amend a standard for the appliance. Notwithstanding paragraph (3) and this paragraph, the commission may do any of the following:

(A) Increase the minimum level of operating efficiency in an existing standard up to the level of the National Voluntary Consensus Standards 90, adopted by the American Society of Heating,

Refrigeration, and Air Conditioning Engineers or, for appliances not covered by that standard, up to the level established in a similar nationwide consensus standard.

(B) Change the measure or rating of efficiency of any standard, if the minimum level of operating efficiency remains substantially the same.

(C) Adjust the minimum level of operating efficiency in an existing standard in order to reflect changes in test procedures that the standards require manufacturers to use in certifying compliance, if the minimum level of operating efficiency remains substantially the same.

(D) Readopt a standard preempted, enjoined, or otherwise found legally defective by an administrative agency or a lower court, if final legal action determines that the standard is valid and if the standard which is readopted is not more stringent than the standard that was found to be defective or preempted.

(E) Adopt or amend any existing or new standard at any level of operating efficiency, if the Governor has declared an energy emergency pursuant to Section 8558 of the Government Code.

(5) Notwithstanding paragraph (4), the commission may adopt standards pursuant to commission order No. 84-0111-1, on or before June 30, 1985.

(d) Recommend minimum standards of efficiency for the operation of any new facility at a particular site which are technically and economically feasible. No site and related facility shall be certified pursuant to Chapter 6 (commencing with Section 25500), unless the applicant certifies that standards recommended by the commission have been considered, which certification shall include a statement specifying the extent to which conformance with the recommended standards will be achieved.

Whenever the provisions of this section and the provisions of Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code are in conflict, the commission shall be governed by the provisions of that chapter of the Health and Safety Code to the extent of the conflict.

CHAPTER 1403

An act to add Sections 20569.2, 22850.3, and 31648.3 to the Government Code, relating to public employee retirement systems.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 20569.2 is added to the Government Code, to read:

20569.2. The board may enter into an agreement in accordance with Section 20569 for termination of a contract which has been in effect for at least five years with respect to local members if particular functions of the contracting agency and local members have been transferred to a district or a county service area which participates in a retirement system established under the County Employees Retirement Law of 1937. The contract shall continue with respect to all other employees of the contracting agency.

SEC. 2. Section 22850.3 is added to the Government Code, to read:

22850.3. Notwithstanding any other provision of this part, a contracting agency which is a city shall be subject to this part only with respect to a recognized employee organization upon the filing with the board of a resolution of its governing body electing to be so subject. The resolution shall be adopted by a majority vote and shall be effective at such time as is provided in board regulations.

SEC. 3. Section 31648.3 is added to the Government Code, to read:

31648.3. In any county in which the board of supervisors has entered into an agreement as permitted by Section 20569.2, the governing body of the contracting agency from which the employees were transferred or the governing body of the district or the county service area to which the employees were transferred may pay all or part of the cost, as determined by the board, of the liabilities which were assumed by the county system under Section 20569 and which exceed the value of the cash or securities of both transferred by the Public Employees' Retirement System to the county system. The governing bodies of the contracting agency and of the district or the county service area may determine the proportion of the liabilities each pays.

CHAPTER 1404

An act to amend Section 14132 of, and to add Section 14134.5 to, the Welfare and Institutions Code, relating to medical assistance.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. The Legislature finds and declares that substantial variations exist in maternal and child health status indicators among counties and socioeconomic and ethnic groups. The Legislature further finds and declares that provision of comprehensive perinatal care to low-income women and their children has proved effective

through the State Department of Health Services obstetrical access pilot program in significantly reducing the incidence of low-birthweight infants and a corresponding reduction in maternal complications and use of expensive neonatal intensive care and long-term rehabilitation. It is the intent of the Legislature in enacting this act to provide a defined set of services to Medi-Cal eligible persons for a sufficient period, and in a comprehensive manner, to extend the benefit of comprehensive perinatal care to low-income women and their children, resulting in a reduction of mortality, crippling conditions, and expense.

SEC. 2. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to

prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment

requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. Such services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, in-home medical care services shall include utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

(u) Home and community-based services approved by the federal Department of Health and Human Services may be covered to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director may seek waivers for any or all home and community-based services approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services a Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall

address the cost-effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

SEC. 3. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial

dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. Such services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, in-home medical care services shall include utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

(u) Home and community-based services approved by the federal Department of Health and Human Services may be covered to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director may seek waivers for any or all home and community-based services approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

SEC. 3.1. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to a determination by the federal Food and Drug Administration that the drug has not been found unsafe or ineffective, and can lawfully be marketed under the United States Food, Drug and Cosmetic Act (21 U.S.C. Sec. 301 et seq.), subject to the utilization controls set forth in Sections 14133 and 14133.1, and subject to subdivision (c) of Section 14196.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment

required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to

circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. Such services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

(u) Home and community-based services approved by the United States Department of Health and Human Services may be covered to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director may seek waivers for any or all home and community-based services approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 3.2. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician,

nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to a determination by the federal Food and Drug Administration that the drug has not been found unsafe or ineffective, and can lawfully be marketed under the United States Food, Drug and Cosmetic Act (21 U.S.C. Sec. 301 et seq.), subject to the utilization controls set forth in Sections 14133 and 14133.1, and subject to subdivision (c) of Section 14196.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or

brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. Such services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

(u) Home and community-based services approved by the United States Department of Health and Human Services may be covered to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director may seek waivers for any or all home and community-based services approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 3.3. Section 14134.5 is added to the Welfare and Institutions Code, to read:

14134.5. All of the following provisions apply to the provision of

services pursuant to subdivision (v) of Section 14132:

(a) "Comprehensive perinatal provider" means any general practice physician, family practice physician, obstetrician-gynecologist, pediatrician, a group, any of whose members is one of the above-named physicians, or any preferred provider organization or clinic holding a valid and current Medi-Cal provider number and certified pursuant to the standards of this section.

(b) "Perinatal" means the period from the establishment of pregnancy to one month following delivery.

(c) "Comprehensive perinatal services" shall include, but not be limited to, the provision of the combination of services developed through the Department of Health Services Obstetrical Access Pilot Program.

(d) The comprehensive perinatal provider shall schedule visits with appropriate providers and shall track the patient to verify whether services have been received. As part of the reimbursement for coordinating these services, the comprehensive perinatal provider shall ensure the provision of the following services either through the provider's own service or through subcontracts or referrals to other providers:

(A) A psychosocial assessment and when appropriate referrals to counseling.

(B) Nutrition assessments and when appropriate referral to counseling on food supplement programs, vitamins and breast-feeding.

(C) Health, childbirth, and parenting education.

(e) Except where existing law prohibits the employment of physicians, a health care provider may employ or contract with all of the following medical and other practitioners for the purpose of providing the comprehensive services delineated in this section:

(1) Physicians, including a general practitioner, a family practice physician, a pediatrician, or an obstetrician-gynecologist.

(2) Certified nurse midwives.

(3) Nurses.

(4) Nurse practitioners.

(5) Physicians assistants.

(6) Social workers.

(7) Health and childbirth educators.

(8) Registered dietitians.

The department shall promulgate regulations which define the qualifications of any of these practitioners who are not currently included under the regulations promulgated pursuant to this chapter. Providers shall, as feasible, utilize staffing patterns which reflect the linguistic and cultural features of the populations they serve.

(f) The California Medical Assistance Program and the Maternal and Child Health Branch of the State Department of Health Services in consultation with the California Conference of Local Health

Officers shall establish standards for health care providers and for services rendered pursuant to this subdivision.

(g) The department shall assist local health departments to establish a community perinatal program whose reponsibilities may include certifying and monitoring providers of comprehensive perinatal services. The department shall provide the local health departments with technical assistance for the purpose of implementing the community perinatal program. The department shall, to the extent feasible, and to the extent funding for administrative costs is available, utilize local health departments in the administration of the perinatal program. If such funds are not available, the department shall use alternative means to implement the community perinatal program.

(h) It is the intent of the Legislature that the department shall establish a method for reimbursement of comprehensive perinatal providers which shall include a fee for coordinating services and which shall be sufficient to cover reasonable costs for the provision of comprehensive perinatal services. The department may utilize fees for service, capitated fees, or global fees to reimburse providers. However, if capitated or global fees are established, the department shall set minimum standards for the provision of services including, but not limited to, the number of prenatal visits and the amount and type of psychosocial, nutritional, and educational services patients shall receive.

Notwithstanding the type of reimbursement system, the comprehensive perinatal provider shall not be financially at risk for the provision of inpatient services. The provision of inpatient services which are not related to perinatal care shall not be subject to the provisions of this section. Inpatient services related to services pursuant to this subdivision shall be reimbursed, in accordance with Section 14081, 14086, 14087, or 14087.2, whichever is applicable.

(i) The department shall develop systems for monitoring and oversight of the comprehensive perinatal services provided in this section. The monitoring shall include, but shall not be limited to, collection of information using the perinatal data form.

(j) Participation for services provided pursuant to this section shall be voluntary. The department shall adopt patient rights safeguards for recipients of the comprehensive perinatal services.

SEC. 4. The State Department of Health Services shall promulgate regulations implementing this act on or before April 1, 1986.

The State Department of Health Services shall, by July 1, 1985, report to the Legislature on the status of the department's efforts to obtain federal waivers necessary to implement this act.

Following the collection of the first year of comprehensive perinatal care data, the department shall report to the Legislature on the need and costs for the provision of a guaranteed eligibility period which would ensure that pregnant women who are initially eligible for services under this chapter could continue to obtain

comprehensive perinatal services from their comprehensive perinatal provider.

SEC. 5. (a) Section 3 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by both this bill and AB 3133. It shall only become operative if (1) both bills are enacted and become effective January 1, 1985, (2) each bill amends Section 14132 of the Welfare and Institutions Code, and (3) AB 3888 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 3133, in which case Sections 2, 3.1, and 3.2 of this bill shall not become operative.

(b) Section 3.1 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by both this bill and AB 3888. It shall only become operative if (1) both bills are enacted and become effective January 1, 1985, (2) each bill amends Section 14132 of the Welfare and Institutions Code, (3) AB 3133 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 3888, in which case Sections 2, 3, and 3.2 of this bill shall not become operative.

(c) Section 3.2 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by this bill, AB 3133, and AB 3888. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1985, (2) all three bills amend Section 14132 of the Welfare and Institutions Code, (3) this bill is enacted after AB 3133 and AB 3888, in which case Sections 2, 3, and 3.1 of this bill shall not become operative.

CHAPTER 1405

An act to amend Sections 5500.1, 5500.3, 5515, 5536, 5536.1, 5537, 5537.2, 5537.5, 5537.6, 5537.7, 5550, 5551, 5554, 5570, 5582, 5589, 5600, 5600.3, 5602, 5604, and 5605 of, to amend and renumber Sections 5541 and 5586 of, to add Sections 5566, 5566.1, 5566.2, 5677, 5678, and 5679 to, to repeal and add Section 5603 of, and to repeal Sections 5540 and 5550.5 of, the Business and Professions Code, relating to business and professions, and making an appropriation therefor.

[Approved by Governor September 25, 1984 Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 5500.1 of the Business and Professions Code is amended to read:

5500.1. A person engages in the practice of architecture within the meaning and intent of this chapter who holds himself or herself out as able to perform or who does perform any service which requires or would require the application of the science, art, or profession of planning sites or of planning or designing buildings or

architectural structures and their related facilities. The services may include consultation, investigation, evaluation, planning, design, the preparation of instruments of service including, but not limited to, drawings and specifications, and observation of construction insofar as customarily performed by architects.

SEC. 2. Section 5500.3 of the Business and Professions Code is amended to read:

5500.3. A person engages in the practice of building design, within the meaning and intent of this chapter, who holds himself or herself out as able to perform or who does perform any service which requires or would require the application of the skills necessary for designing buildings and their related sites and facilities, and includes the preparation of customary instruments of service including, but not limited to, drawings and specifications and observation of construction insofar as is customarily performed by building designers.

A person who is registered as a building designer shall associate with a registered civil engineer, structural engineer, or licensed architect with respect to the design of any building which is not exempted from Chapter 7 (commencing with Section 6700) by Section 6737.1; and the association shall prepare or offer to prepare drawings, specifications, estimates, or instruments of service for the construction of buildings where the documents are required by law to be prepared by a registered civil engineer, structural engineer or licensed architect. The registered civil engineer, structural engineer, or licensed architect shall sign all drawings, specifications, or instruments of service which shall be evidence of his or her responsibility for the work. The registered civil engineer, structural engineer, or licensed architect shall be responsible for the observation of construction.

A building designer may not prepare or offer to prepare drawings, specifications, estimates or instruments of service with respect to the design of any building which is not exempted from Chapter 7 (commencing with Section 6700) by Section 6737.1 unless the building designer is associated with a registered civil engineer, structural engineer, or licensed architect prior to offering the services.

SEC. 3. Section 5515 of the Business and Professions Code is amended to read:

5515. Every person appointed shall serve for four years and until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs.

No person shall serve as a member of the board for more than two consecutive terms.

Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term.

Each appointment shall expire on June 1 of the fourth year following the year in which the previous term expired.

The Governor shall appoint three of the public members and the four licensed members qualified as provided in Section 5514. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 4. Section 5536 of the Business and Professions Code is amended to read:

5536. (a) It is a misdemeanor, punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment, for any person who does not hold a certificate to engage in the practice of architecture issued under this chapter, to practice architecture in this state or to use any term confusingly similar to the word architect, or to advertise or put out any sign or card or other device which might indicate to the public that he or she is an architect or that he or she is qualified to engage in the practice of architecture or is an architectural designer.

(b) Nothing contained in this section prohibits the use, in any advertisement, sign, card, or other device, of the term "building designer" if the person is registered as a building designer under this chapter.

SEC. 5. Section 5536.1 of the Business and Professions Code is amended to read:

5536.1. It is a misdemeanor, punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding six months, or by both fine and imprisonment, for any person not registered to practice building design or without a certificate to practice architecture, to practice building design as defined in this chapter, to use any term confusingly similar to that of building designer or to advertise, or put out any sign or card or other device which might indicate to the public that he or she is a building designer, or that he or she is qualified to engage in the practice of building design.

SEC. 6. Section 5537 of the Business and Professions Code is amended to read:

5537. This chapter does not prohibit any person from preparing plans, drawings, or specifications for:

(a) Buildings for his or her own use and occupancy unless the public health, safety, or welfare is involved.

(b) Farm or ranch buildings unless the public health, safety, or welfare is involved.

(c) Single family dwellings of wood frame construction not more than two stories high.

SEC. 7. Section 5537.2 of the Business and Professions Code is amended to read:

5537.2. This chapter does not prohibit a contractor, licensed

under Chapter 9 (commencing with Section 7000) of Division 3, while engaged in the business of contracting, from designing systems or facilities as otherwise permitted by law for work to be performed and supervised by the contractor within the classification for which his or her license is issued, or from preparing shop or field drawings for work which he or she has contracted to perform.

SEC. 8. Section 5537.5 of the Business and Professions Code is amended to read:

5537.5. A landscape architect registered under the provisions of Chapter 3.5 (commencing with Section 5615) of Division 3, insofar as he or she practices the profession for which he or she is registered under Chapter 3.5 of Division 3, is exempt from the provisions of this chapter.

SEC. 9. Section 5537.6 of the Business and Professions Code is amended to read:

5537.6. For the purposes of this chapter a contractor, licensed under Chapter 9 (commencing with Section 7000) of Division 3, is exempt from the provisions of this chapter so long as the services he or she holds himself or herself out as able to perform or does perform, which services are subject to the provisions of this chapter, are performed on behalf of the contractor by, or under the responsible supervision of, a person licensed to practice architecture or registered as a building designer under this chapter subject to the limitations of Section 5500.3 or a professional or civil engineer licensed under the provisions of Chapter 7 (commencing with Section 6700) of Division 3, insofar as the professional or civil engineer practices the profession for which he or she is registered under Chapter 7 of Division 3.

SEC. 10. Section 5537.7 of the Business and Professions Code is amended to read:

5537.7. A land surveyor licensed under the provisions of Chapter 15 (commencing with Section 8700) of Division 3, insofar as he or she practices the profession for which he or she is licensed under Chapter 15 of Division 3, is exempt from the provisions of this chapter.

SEC. 11. Section 5540 of the Business and Professions Code is repealed.

SEC. 12. Section 5541 of the Business and Professions Code is amended and renumbered to read:

5536.3. Each county or city which requires the issuance of a permit as a condition precedent to the construction, alteration, improvement, or repair of any building or structure shall also require as a condition precedent to the issuance of the permit a signed statement that the person who has prepared the plans and specifications for the construction, alteration, improvement, or repair of the building or structure is registered or licensed under this chapter to prepare the plans and specifications, or is otherwise licensed in this state to prepare the plans and specifications.

The signature and registration number on the plans and

specifications of a person who is certificated, registered or licensed to prepare the plans and specifications shall constitute compliance with this section.

It shall be the responsibility of the agency that issues the permit to determine that the person who signed the plans and specifications or who submitted a signed statement that he or she is registered or licensed under this chapter, is qualified under this chapter to prepare the plans and specifications.

The provisions in this section shall not apply to the issuance of permits where the preparation of plans and specifications for the construction, alteration, improvement, or repair of a building or structure is exempt from the provisions of this chapter, except that the person preparing the plans and specifications for others shall sign the plans and specifications as provided by Section 5536.2.

SEC. 13. Section 5550 of the Business and Professions Code is amended to read:

5550. Subject to the rules and regulations governing examinations, any person who meets the qualifications set forth in this article shall be entitled to an examination for a license to practice architecture. Before taking the examination he or she shall file his or her application therefor with the board and pay the application fee fixed by this chapter. The fee shall be retained by the board.

SEC. 14. Section 5550.5 of the Business and Professions Code is repealed.

SEC. 15. Section 5551 of the Business and Professions Code is amended to read:

5551. If the applicant's examination is satisfactory, and if no charges of having resorted to deception in obtaining the license, or any other violation of the provisions of this chapter have been filed with the board, upon the payment of the license fee fixed by this chapter, the board shall issue a certificate to the applicant showing that the person named therein is entitled to practice architecture in this state, in accordance with the provisions of this chapter.

SEC. 16. Section 5554 of the Business and Professions Code is amended to read:

5554. The certificate shall contain the name of the person to whom issued. Proper index and record of each certificate shall be kept by the board.

SEC. 17. Section 5566 is added to the Business and Professions Code, to read:

5566. If, upon completion of an investigation, the executive officer has probable cause to believe that a licensee or an unlicensed individual acting in the capacity of an architect or a building designer has violated provisions of this chapter, he or she may issue a citation to the licensee or individual, as provided in this section. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of this chapter alleged to have been violated. In addition, each citation may contain an assessment of a civil penalty. The citation shall be served upon the

licensee or unlicensed individual personally or through registered mail. Before any citation may be issued, the executive officer shall submit the alleged violation for review and investigation to at least one designee of the board who is a certificate holder or a staff architect. The review shall include attempts to contact the licensee or unlicensed individual to discuss and resolve the alleged violation. Upon conclusion of the board designee's review, the designee shall prepare a finding of fact and a recommendation. If the board designee concludes that probable cause exists that a licensee or unlicensed individual has violated any provisions of this chapter, a citation shall be issued to the licensee or unlicensed individual.

SEC. 18. Section 5566.1 is added to the Business and Professions Code, to read:

5566.1. (a) The board shall promulgate regulations covering the assessment of civil penalties under this article which give due consideration to the appropriateness of the penalty with respect to the following factors:

(1) The gravity of the violation.

(2) The good faith of the individual being charged.

(3) The history of previous violations.

(b) In no event shall the civil penalty for each citation issued be assessed in an amount greater than two thousand dollars ($2,000).

SEC. 19. Section 5566.2 is added to the Business and Professions Code, to read:

5566.2. (a) If a licensee or an unlicensed individual desires to contest a citation or the proposed assessment of a civil penalty therefor, he or she shall, within 10 business days after service of the citation, notify the executive officer in writing of his or her request for an informal conference with the executive officer or his or her designee. The executive officer or his or her designee shall hold, within 60 days from the receipt of the request, an informal conference. At the conclusion of the informal conference the executive officer may affirm, modify, or dismiss the citation or proposed assessment of a civil penalty, and he or she shall state with particularity in writing his or her reasons for the action, and shall immediately transmit a copy thereof to the board, the licensee or unlicensed individuals, and the person who submitted the verified complaint. If the licensee or unlicensed individual desires to contest a decision made after the informal conference, he or she shall inform the executive officer in writing within five business days after he or she receives the decision resulting from the informal conference.

If the licensee or unlicensed individual fails to notify the executive officer in writing that he or she intends to contest the citation or the proposed assessment of a civil penalty therefor or the decision made after an informal conference within the time specified in this subdivision, the citation or the proposed assessment of a civil penalty or the decision made after an informal conference shall be deemed a final order of the board and shall not be subject to further administrative review.

(b) A licensee or an unlicensed individual may, in lieu of contesting a citation pursuant to this section, transmit to the board the amount assessed in the citation as a civil penalty, within 10 business days after service of the citation.

(c) If a licensee or an unlicensed individual has notified the executive officer in a timely manner that he or she intends to contest the decision made after the informal conference, the executive officer shall arrange a hearing before the board. After the hearing, the board shall issue a decision, based on findings of fact, affirming, modifying, or vacating the citation, or directing other appropriate relief which shall include, but need not be limited to, a notice that the failure of a licensee or unlicensed individual to comply with any provision of the board's decision constitutes grounds for suspension, or denial of licensure, or both. The proceedings under this section shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

(d) After the exhaustion of the review procedures provided for in this section, the board may apply to the appropriate superior court for a judgment in the amount of the civil penalty and an order compelling the cited person to comply with the order of abatement. The application, which shall include a certified copy of the final order of the board, shall constitute a sufficient showing to warrant the issuance of the judgment and order.

(e) Any civil penalties received under this chapter shall be deposited in the California State Board of Architectural Examiners Fund.

SEC. 20. Section 5570 of the Business and Professions Code is amended to read:

5570. In any proceeding for review by a court, the court may, in its discretion, upon the filing of a proper bond by the holder of the certificate in an amount to be fixed by the court, guaranteeing the compliance by the holder of the certificate with specific conditions imposed upon him or her by the board's decision, if any, permit the holder of the certificate to continue to practice as an architect pending entry of judgment by the court in the case. There shall be no stay of the board's decision pending an appeal or review of any proceeding unless the appellant or applicant for review shall file a bond in all respects conditioned as, and similar to, the bond required to stay the effect of the board's decision in the first instance.

SEC. 21. Section 5582 of the Business and Professions Code is amended to read:

5582. The fact that the holder of a certificate has aided or abetted in the practice of architecture any person not authorized to practice architecture under the provisions of this chapter, constitutes a ground for disciplinary action.

SEC. 22. Section 5586 of the Business and Professions Code is amended and renumbered to read:

5582.1. The fact that the holder of a certificate has affixed his or her signature to plans, drawings, specifications or other instruments of service which have not been prepared by him or her or in his or her office, or under his or her immediate and responsible direction, or has permitted his or her name to be used for the purpose of assisting any person, not an architect, to evade the provisions of this chapter, constitutes a ground for disciplinary action.

SEC. 23. Section 5589 of the Business and Professions Code is amended to read:

5589. Every settlement or arbitration award in excess of five thousand dollars ($5,000) of a claim or action for damages caused by the certificate holder's fraud, deceit, negligence, incompetency or recklessness in practice when the certificate holder does not possess professional liability insurance as to such claim shall, within 30 days after any settlement agreement has been consented to by the certificate holder or 30 days after service of the arbitration award on the parties, be reported to the board. A complete report shall be made by appropriate means by the certificate holder or his or her counsel, with a copy of the communication to be sent to the claimant through his or her counsel if he or she is so represented, or directly if he or she is not. If, within 45 days of the conclusion of the settlement agreement or service of the arbitration award on the parties, counsel for the claimant, or if he or she is not represented by counsel, the claimant himself, has not received a copy of the report, he or she shall himself or herself make a complete report. Failure of the certificate holder or claimant or, if represented by counsel, their counsel, to comply with the provisions of this section shall be a misdemeanor punishable by a fine of not less than one hundred dollars ($100) or more than one thousand dollars ($1,000). Knowing and intentional failure to comply with the provisions of this section, or conspiracy or collusion not to comply with the provisions of this section, or to hinder or impede any other person in the compliance with this section shall be a misdemeanor punishable by a fine of not less than ten thousand dollars ($10,000) nor more than one hundred thousand dollars ($100,000).

SEC. 24. Section 5600 of the Business and Professions Code is amended to read:

5600. All certificates issued or renewed under this chapter on or after August 31, 1985, shall expire at 12 p.m. on the birthday of the certificate holder in each odd-numbered year following the issuance or renewal of the certificate.

To renew an unexpired certificate, the certificate holder shall, before the time at which the certificate would otherwise expire, apply for renewal on a form prescribed by the board and pay the renewal fee prescribed by this chapter.

The board shall issue a receipt to each architect promptly upon payment of the renewal fee.

SEC. 25. Section 5600.3 of the Business and Professions Code is amended to read:

5600.3. A certificate which is not renewed within five years after its expiration may not be renewed, restored, reissued, or reinstated thereafter. The holder of the expired certificate may apply for and obtain a new certificate only if he or she pays all of the fees, and meets all of the requirements set forth in this chapter for obtaining an original certificate, except as follows:

(a) An examination shall not be required if the expired certificate was issued without an examination.

(b) An examination shall not be required if the holder of the expired certificate retired from the practice of architecture before October 1, 1961, and notified the board in writing before October 1, 1961, of his retirement.

(c) Examination may be waived by the board if it finds that with due regard for the public interest, the holder of the expired certificate is qualified to practice architecture.

(d) The holder of the expired certificate shall not be required to meet the qualifications set forth in this chapter relating to education.

The board may, by regulation, authorize the waiver or refund of all or any part of the application fee paid by a person to whom a certificate is issued without an examination under this section.

SEC. 26. Section 5602 of the Business and Professions Code is amended to read:

5602. The money paid into the California State Board of Architectural Examiners Fund, which is hereby continued in existence, shall be used in the manner prescribed by law to defray the expenses of the board in carrying out and enforcing the provisions of this chapter.

SEC. 27. Section 5603 of the Business and Professions Code is repealed.

SEC. 28. Section 5603 is added to the Business and Professions Code, to read:

5603. The board shall maintain, publish, and distribute to local building departments, and others upon request, an official roster listing the name, license number, and address of all its licensees issued licenses pursuant to this chapter and who are in good standing. The roster shall be open to inspection by the public during office hours of the board. Except for local building departments, the board may charge a fee for the maintenance, publication, and distribution of the roster, not to exceed the actual cost thereof. All fees collected pursuant to this section shall be deposited in the California State Board of Architectural Examiners Fund.

SEC. 29. Section 5604 of the Business and Professions Code is amended to read:

5604. The fees prescribed by this chapter for architect applicants or architect certificate holders shall be fixed by the board as follows:

(a) The application fee for any section of the examination at not to exceed fifty dollars ($50). However, if the National Council of Architectural Boards' examination is used by the board, the application fee for any section of the examination shall not exceed

the board's actual cost for obtaining and administrating the section of the examination to a maximum of fifty dollars ($50).

(b) The fee for an original certificate at an amount equal to the renewal fee in effect for the last regular renewal period before the date on which the certificate is issued, except that, if the certificate is issued less than one year before the date on which it will expire, then the fee shall be fixed at an amount equal to 50 percent of the renewal fee in effect for the last regular renewal period before the date on which the certificate is issued. The board may, by appropriate regulation, provide for the waiver or refund of the fee for an original certificate if the certificate is issued less than 45 days before the date on which it will expire.

(c) The fee for an application for reciprocity at not to exceed one hundred dollars ($100).

(d) The fee for a duplicate certificate at not to exceed fifteen dollars ($15).

(e) The renewal fee at not to exceed one hundred dollars ($100).

(f) The delinquency fee at not to exceed 50 percent of the renewal fee.

SEC. 30. Section 5605 of the Business and Professions Code is amended to read:

5605. The fees prescribed by this chapter for registration of building designers shall be fixed by the board as follows:

(a) The renewal fee for registration to practice building design shall be fixed by the board at not to exceed one hundred dollars ($100).

(b) The deliquency fee at not to exceed 50 percent of the renewal fee.

(c) All registrations of building designers issued or renewed on or after August 31, 1985, shall expire at 12 p.m. on the birthday of the registered designer in each odd-numbered year following the issuance or renewal of the registration. All registrations shall be renewed prior to the expiration date.

(d) The fee for a duplicate registration at not to exceed fifteen dollars ($15).

SEC. 31. Section 5677 is added to the Business and Professions Code, to read:

5677. If, upon completion of investigation, the executive officer has probable cause to believe that a licensee or an unlicensed individual acting in the capacity of landscape architect has violated provisions of this chapter, he or she may issue a citation to such an individual. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of this chapter alleged to have been violated. In addition, each citation may contain an assessment of a civil penalty. The citation shall be served upon the licensee, or unlicensed individual personally, or through registered mail. Before any notice may be issued, the executive officer shall submit the alleged violation for review and investigation to at least one representative of the board

who is a licensed landscape architect or a staff landscape architect. The representative or staff landscape architect's review shall include attempts to contact the licensee or unlicensed individual to discuss and resolve the alleged violation. Upon conclusion of his or her review, he or she shall prepare a finding of fact and a recommendation based upon the finding to which the executive officer shall give due consideration in determining whether probable cause exists that a licensee or unlicensed individual has violated provisions of this chapter.

SEC. 32. Section 5678 is added to the Business and Professions Code, to read:

5678. The board shall promulgate regulations covering the assessment of a civil penalty under this article which give due consideration to the appropriateness of the penalty with respect to the following factors:

(1) The gravity of the violation.

(2) The good faith of the individual being charged.

(3) The history of previous violations.

In no event shall the civil penalty of each citation be assessed in an amount greater than two thousand dollars ($2,000).

SEC. 33. Section 5679 is added to the Business and Professions Code, to read:

5679. (a) If a licensee or an unlicensed individual desires to contest a citation or the proposed assessment of a civil penalty therefor, he or she shall within 10 business days after service of the citation notify the executive officer in writing of his or her request for an informal conference with the executive officer or his or her designee. The executive officer or his or her designee shall hold, within 60 days from the receipt of the request, an informal conference, at the conclusion of which he or she may affirm, modify, or dismiss the citation or proposed assessment of a civil penalty. He or she shall state with particularity, in writing, his or her reasons for such action, and shall immediately transmit a copy thereof, to each party, of the original complaint.

If the licensee, or unlicensed individual desires to contest a decision made after the informal conference, he or she shall inform the executive officer in writing within five business days after he or she receives the decision resulting from the informal conference.

If the licensee or unlicensed individual fails to notify the executive officer in writing that he or she intends to contest the citation or the proposed assessment of a civil penalty therefor or the decision made after an informal conference within the time specified in this subdivision, the citation or the proposed assessment of a civil penalty or the decision made after an informal conference shall be deemed a final order of the board and shall not be subject to further administrative review.

(b) A licensee or an unlicensed individual may, in lieu of contesting a citation pursuant to this section, transmit to the board the amount assessed in the citation as a civil penalty, within 10

business days after service of the citation.

(c) Where a licensee or an unlicensed individual has notified the executive officer in a timely manner that he or she intends to contest the decision made after the informal conference, the executive officer shall afford an opportunity for a hearing. The board shall thereafter issue a decision, based on findings of fact, affirming, modifying, or vacating the citation, or directing other appropriate relief which shall include, but not be limited to, an order that a licensee's or unlicensed individual's failure to comply with any provision of the board's decision constitutes grounds for suspension or denial of licensure, or both. The proceedings under this section shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

(d) After the exhaustion of the review procedures provided for in Section 5566.2, the board may apply to the appropriate superior court for a judgment in the amount of the civil penalty and an order compelling the cited person to comply with the order of abatement. The application, which shall include a certified copy of the final order of the board, shall constitute a sufficient showing to warrant the issuance of the judgment and order.

(e) The civil penalties received under this chapter shall be deposited in the California State Board of Landscape Architects Fund.

SEC. 34. The sum of ten thousand dollars ($10,000) is hereby appropriated from the California State Board of Architectural Examiners Fund to the State Board of Architectural Examiners for the purposes of paying the expenses of the Board of Architectural Examiners and its staff, incurred in implementing the provisions of Sections 17, 18, and 19 of this act.

SEC. 35. The sum of nine thousand dollars ($9,000) is hereby appropriated from the California State Board of Landscape Architects Fund to the California State Board of Landscape Architects for the purposes of paying the expenses of the California State Board of Landscape Architects and its staff, incurred in implementing the provisions of Sections 31, 32, and 33 of this act.

SEC. 36. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 36.5. A sum sufficient to pay the claim of any local agency or school district which claim is approved by the Controller for reimbursement of any costs incurred by that local agency or school district as a result of this act, as specified in Section 36 of this act, is

hereby appropriated from the California State Board of Architectural Examiners Fund for the fiscal year 1984–85.

SEC. 37. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1406

An act to amend Sections 53322.4 and 53360 of, add and repeal Section 53360.4 of, and to add Section 53360.7 to, the Government Code, and to amend Section 50775 of, and to add and repeal Part 6.5 (commencing with Section 52580) of Division 31 of, the Health and Safety Code, relating to public entities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 53322.4 of the Government Code is amended to read:

53322.4. The clerk of the legislative body may also give notice of the hearing by first-class mail to each registered voter and to each landowner within the proposed district. This notice shall be mailed at least 15 days before the hearing and shall contain the same information as is required to be contained in the notice published pursuant to Section 53322.

SEC. 2. Section 53360 of the Government Code is amended to read:

53360. The community facilities district may sell the bonds so issued at the times or in the manner the legislative body deems to be to the public interest. However, except as otherwise provided in Section 53360.4, all bonds shall be sold on sealed proposals to the highest bidder, after advertising for bids by publication of notice of sale pursuant to Section 53322, not less than 10 days prior to the date of sale in a newspaper of general circulation circulating in the area. If no bids are received or if the legislative body determines that the bids received are not satisfactory as to price or responsibility of the bidders, the legislative body may reject all bids received, if any, and either readvertise or sell the bonds at private sale.

SEC. 3. Section 53360.4 is added to the Government Code, to read:

53360.4. (a) Notwithstanding Section 53360, until January 1, 1987, the legislative body may sell bonds at private sale, without advertising for bids, if the legislative body determines that such

action would result in a lower interest cost on the bonds.

(b) This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before that date, deletes or extends that date.

SEC. 4. Section 53360.7 is added to the Government Code, to read:

53360.7. The legislative body may provide that bonds shall bear a variable interest rate, and for the manner and intervals in which the rate shall vary. The variable rate shall not exceed the maximum rate permitted by Section 53531 or any other applicable provision of law limiting the maximum interest rate on bonds.

SEC. 4.5. Section 50775 of the Health and Safety Code is amended to read:

50775. (a) The department may provide financial assistance, in accordance with this chapter, to households residing in rental housing, or a mobilehome park in which those households rent spaces, which is to be converted to condominium ownership, planned development ownership, as defined in Section 11003 of the Business and Professions Code, or ownership by a stock cooperative corporation, as defined in Section 11003.2 of the Business and Professions Code, for the purpose of assisting those households in acquiring a dwelling unit or a share in the stock cooperative corporation which entitles those households to occupancy of a dwelling unit.

(b) The department may also provide financial assistance for the purpose of assisting households to purchase a mobilehome, as defined in Section 18008, which is located outside a mobilehome park, as defined in Section 18214, and which is affixed to a permanent foundation system.

(c) The financial assistance provided pursuant to subdivision (a) or (b) shall not exceed 49 percent of the purchase price paid by the household for the dwelling unit, mobilehome, or share in the stock cooperative, and in no event shall that assistance be used to reduce the purchaser's downpayment below 3 percent of the total purchase price.

(d) The department may establish maximum purchase prices for such units, mobilehomes, or shares.

(e) Eligibility for that financial assistance shall be limited to households which meet all of the following conditions:

(1) Their incomes are no greater than the median for the county.

(2) The households do not currently own residential property and have not owned any residential property, other than a mobilehome not affixed to a permanent foundation, for at least three years.

(3) The households have not previously received any assistance pursuant to this chapter.

(4) The households, without financial assistance pursuant to this section, would be unable to acquire a dwelling unit, mobilehome, or a share in a stock cooperative.

(f) As used in this chapter, "dwelling unit" means the dwelling

unit that the household occupies, or another dwelling unit not being purchased by its existing tenant within the same rental housing development or mobilehome park. "Dwelling unit" includes a space in a mobilehome park, as defined in Section 18214, and includes a mobilehome rented with the space. "Dwelling unit" also includes factory-built housing, as defined by Section 19971, whether the household occupied that factory-built housing or other factory-built housing in the same rental housing development or mobilehome park.

SEC. 5. Part 6.5 (commencing with Section 52580) is added to Division 31 of the Health and Safety Code, to read:

PART 6.5. LOCAL AGENCY HOUSING INFRASTRUCTURE INCENTIVE ACT

CHAPTER 1. LEGISLATIVE FINDINGS

52580. (a) The Legislature finds and declares as follows:

(1) There exists a severe shortage of affordable housing, especially for persons and families of low and moderate income, and there is an immediate need to encourage local agencies to facilitate the production of new housing through the provision of supplemental financial assistance, not only to develop new and adequate infrastructure but for the rehabilitation, maintenance, and improvement of existing public works essential to accommodate the growing housing needs of our population. Without a supply of affordable housing, this state will find it more difficult to attract and retain industry.

(2) The costs of new housing developments have been increasing, in part, because local agencies do not have a viable means to support the growing infrastructure housing needs. As a consequence, local agencies must require housing developers to assume, through new housing development fees, a significant share of the infrastructure costs, which forces the new home buyers to bear disproportionately increased costs. This not only results in decreasing the relative affordability of the state's housing supply, but also causes vitally needed housing developments to be impeded, halted, or rendered infeasible despite the benefits to the public health, safety, and welfare.

(3) The state has the primary responsibility to assist local agencies through the creation of an incentive-oriented supplemental financing program for local infrastructure to provide the incentive to local agencies toward facilitating the production of an ample supply of affordable housing, necessary both for the well-being of our citizens and for a strong state economy.

(4) It is in the public interest and it will serve a public purpose for the Legislature to provide, through this part, a housing infrastructure incentive policy, and a concept with broad flexibility and local options, which will provide in cooperation with local agencies,

greater encouragement to local agencies to expedite the process of approving needed housing developments. This will reassert the state's long-range priority commitment which reaffirms that stimulating affordable housing growth, economic prosperity, development, and environmental protection are statewide public needs which are not mutually exclusive and are each vital to the balanced growth and development of this state.

(b) The provisions of this chapter shall not be self-executing and shall not be implemented unless further enabling legislation, with clearly defined actions, determines and authorizes that the findings shall be implemented, in whole or in part.

(c) This part shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before that date deletes or extends that date.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to grant certain public entities that have an immediate need to arrange public financing the authority to lower the financial burden of debt service for the taxpayers as soon as possible, and in order to declare the intent of the Legislature with respect to planning and funding the construction of infrastructure as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1407

An act to amend Section 286 of, and to add Section 9858.1 to, the Vehicle Code, relating to vessels.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 286 of the Vehicle Code is amended to read:

286. The term "dealer" does not include:

(a) Insurance companies, banks, finance companies, public officials, or any other person coming into possession of vehicles in the regular course of business, who shall sell such vehicles under a contractual right or obligation, or in performance of an official duty, or in authority of any court of law; provided, such sale is for the purpose of saving the seller from loss or pursuant to the authority of a court of competent jurisdiction.

(b) Persons who sell or distribute vehicles of a type subject to registration for a manufacturer to vehicle dealers licensed under this code, or who are employed by manufacturers or distributors to promote the sale of vehicles dealt in by such manufacturers or

distributors; provided, however, that if any such persons also sell vehicles at retail, they shall be deemed to be vehicle dealers and are subject to this code.

(c) Persons regularly employed as salesmen by vehicle dealers licensed under this code while acting within the scope of such employment.

(d) Persons exclusively engaged in the bona fide business of exporting vehicles or of soliciting orders for the sale and delivery of vehicles outside the territorial limits of the United States; provided, no federal excise tax is legally payable on any of such transactions, or such tax is legally refundable on such transactions. Persons not exclusively engaged in the bona fide business of exporting vehicles but who are engaged in the business of soliciting orders for the sale and delivery of vehicles outside the territorial limits of the United States shall be exempt from licensure as dealers only if their sales of such vehicles produces less than 10 percent of their total gross revenue from all business transacted.

(e) Persons not engaged in the purchase or sale of vehicles as a business, disposing of vehicles acquired for their own use, or for use in their business when the same shall have been so acquired and used in good faith, and not for the purpose of avoiding the provisions of this code.

(f) Persons who are engaged in the purchase, sale or exchange of vehicles, other than motorcycles subject to identification under this code, which are not intended for use on the highways.

(g) Persons temporarily retained as auctioneers solely for the purpose of disposing of vehicle stock inventories on behalf of the owners thereof by means of public auctions at the location of such owners' place of business, or as otherwise approved by the department, provided intermediate physical possession or control of, or an ownership interest in such inventory is not conveyed to the persons so retained.

(h) Persons who are engaged exclusively in the business of purchasing, selling, servicing, or exchanging racing vehicles, parts for racing vehicles, and trailers designed and intended by the manufacturer exclusively for carrying racing vehicles. For purposes of this subdivision, "racing vehicle" means a motor vehicle of a type used exclusively in a contest of speed or in a competitive trial of speed which is not intended for use on the highways.

(i) Any person who is a "lessor" as defined in Section 372.

(j) Any person who is a "renter" as defined in Section 508.

(k) A "salvage pool" as defined in Section 543.

(*l*) A yacht broker who is subject to the Yacht and Ship Brokers Act (Article 2 (commencing with Section 700) of Chapter 5 of Division 3 of the Harbors and Navigation Code) and who is selling used boat trailers in conjunction with the sale of a vessel.

SEC. 2. Section 9858.1 is added to the Vehicle Code, to read:

9858.1. Any documentary preparation charge by an authorized agent of the department shall not exceed twenty dollars ($20).

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

CHAPTER 1408

An act to add Sections 66771.7 and 66792.5 to the Government Code, relating to solid waste.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 66771.7 is added to the Government Code, to read:

66771.7. The board shall adopt standards and regulations, after July 1, 1985, but before January 1, 1986, requiring that, as a condition for the issuance, modification, revision, or review of a solid waste facilities permit for a disposal facility by an enforcement agency, the operator of the disposal facility shall provide assurance of adequate financial ability to respond to personal injury claims and public or private property damage claims resulting from the operations of the disposal facility which occur before closure.

SEC. 2. Section 66792.5 is added to the Government Code, to read:

66792.5. (a) The Legislature hereby finds and declares that the long-term protection of air, water, and land from pollution due to the disposal of solid waste is best achieved by requiring financial assurances for the closure and postclosure maintenance of solid waste disposal facilities.

(b) On or before July 1, 1985, the board shall submit to the Legislature a report which identifies the best means of developing, implementing, and administering closure and postclosure financial assurances for solid waste facilities.

CHAPTER 1409

An act to add Section 1522.4 to, and to amend Section 1550 of, the Health and Safety Code, relating to community care facilities.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 1522.4 is added to the Health and Safety Code, to read:

1522.4. (a) In addition to any other requirements of this chapter and except for foster family homes and small family homes, all of the following apply to any community care facility providing 24-hour care for six or fewer wards or dependents of the juvenile court:

(1) The facility shall have one or more facility managers. "Facility manager," as used in this section, means a person on the premises with the authority and responsibility necessary to manage and control the day-to-day operation of a community care facility and supervise the clients. The facility manager, licensee, and administrator, or any combination thereof, may be the same person provided he or she meets all applicable requirements. If the administrator is also the facility manager for the same facility, this person shall be limited to the administration and management of only one facility.

(2) The facility manager shall have at least one year of experience working with the client group served, or equivalent education or experience, as determined by the department.

(3) A facility manager shall be at the facility at all times when one or more clients are present. To ensure adequate supervision of clients when clients are at the facility outside of their normal schedule, a current telephone number where the facility manager can be reached shall be provided to the clients, licensing agency, school, and any other agency or person as the department determines is necessary. The facility manager shall instruct these agencies and individuals to notify him or her when clients will be returning to the facility outside of the normal hours.

(4) The Legislature intends to upgrade the quality of care in licensed facilities. For the purposes of Sections 1533 and 1534, the licensed facility shall be inspected and evaluated for quality of care at least once each year, without advance notice and as often as necessary, without advance notice, to insure the quality of care being provided.

(5) In addition to any notices required under Section 1538.5, if the department sends a notice to the licensee as a result of a substantiated complaint regarding a violation of any provision of this chapter, the department shall notify the placement agency, as designated in each resident's placement agreement, of the nature of

the complaint. Any placement agency placing, or making an inquiry for placement of, a client shall also be informed by the licensee of any unresolved complaint notices and the nature of the complaints.

Paragraphs (1), (2), and (3) shall apply only to new facilities which apply for a license after January 1, 1985.

(b) No employee of the state or county employed in the administration of this chapter or employed in a position that is in any way concerned with facilities licensed under this chapter shall hold a license or have a direct or indirect financial interest in a facility described in subdivision (a).

The department, by regulation, shall make the determination pursuant to the purposes of this section and chapter, as to what employment is in the administration of this chapter or in any way concerned with facilities licensed under this chapter and what financial interest is direct or indirect.

This subdivision does not prohibit the state or county from securing a license for, or operating, a facility that is otherwise required to be licensed under this chapter.

SEC. 2. Section 1550 of the Health and Safety Code is amended to read:

1550. The state department may suspend or revoke any license, registration, or special permit issued under the provisions of this chapter upon any of the following grounds and in the manner provided in this chapter:

(a) Violation by the licensee, registrant, or holder of a special permit of any of the provisions of this chapter or of the rules and regulations promulgated under this chapter.

(b) Aiding, abetting, or permitting the violation of any provision of this chapter or of the rules and regulations promulgated under this chapter.

(c) Conduct in the operation or maintenance, or both the operation and maintenance, of a community care facility which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California.

(d) The conviction of a licensee, or other person mentioned in Section 1522, at any time during licensure, of a crime as defined in Section 1522.

(e) The licensee of any facility or the person providing direct care or supervision knowingly allows any child to have illegal drugs or alcohol on the licensed premises.

The director may temporarily suspend any license, registration, or special permit, prior to any hearing when, in the opinion of the director, such action is necessary to protect residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The director shall notify the licensee, registrant, or holder of the special permit of the temporary suspension and the effective date thereof and at the same time shall serve such provider with an accusation. Upon receipt of a notice of

defense to the accusation by the licensee, registrant, or holder of the special permit, the director shall, within 15 days, set the matter for hearing, and the hearing shall be held as soon as possible but not later than 30 days after receipt of such notice. The temporary suspension shall remain in effect until such time as the hearing is completed and the director has made a final determination on the merits. However, the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 30 days after the original hearing has been completed.

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

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1410

An act to add Section 8588.3 to, and to add Chapter 7.6 (commencing with Section 8695) to Division 1 of Title 2 of, the Government Code, and to repeal Section 185 of the Military and Veterans Code, relating to economic disaster.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 8588.3 is added to the Government Code, to read:

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

(b) The California Specialized Training Institute of the office of the Adjutant General is hereby transferred to the Office of Emergency Services. The institute shall assist the Governor in

providing, pursuant to subdivision (f) of Section 8570, training to state agencies, cities, and counties in their planning and preparation for disasters.

(c) The Director of the Office of Emergency Services may solicit, receive, and administer funds or property from federal, state, or other public agency sources for the support and operation of the institute.

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

(e) Any moneys received by the Director of the Office of Emergency Services from charges or fees imposed in connection with the operation of the institute shall be deposited in the General Fund.

SEC. 2. Chapter 7.6 (commencing with Section 8695) is added to Division 1 of Title 2 of the Government Code, to read:

CHAPTER 7.6. ECONOMIC DISASTER ACT OF 1984

8695. This chapter shall be known and may be cited as the Economic Disaster Act of 1984.

8695.5. The Legislature finds and declares that the disaster response of state agencies does not adequately focus on the economic impact of a natural disaster on the business community.

8696. It is the purpose of this chapter to institutionalize the planning and response of state agencies to disasters in order to reduce economic hardship stemming from these disasters to business.

8696.5. As used in this chapter, the term "disaster" means those conditions specified in subdivisions (b) and (c) of Section 8558.

8697. It is the intent of the Legislature to ensure that, upon the completion of the emergency phase and the immediate recovery phase of a disaster, appropriate state agencies take actions to provide continuity of effort conducive to long-range economic recovery. Accordingly, the Director of the Office of Emergency Services, at his or her discretion, may invoke the assignments made pursuant to Section 8595, specifying the emergency functions of each agency or department.

8697.5. The Director of the Office of Emergency Services, in executing the purposes of this act, may establish appropriate task forces or emergency teams to include concerned elements of federal, state, and local governments and the private sector.

SEC. 3. Section 185 of the Military and Veterans Code is repealed.

CHAPTER 1411

An act to amend Sections 713 and 4332 of the Fish and Game Code, relating to licenses.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 713 of the Fish and Game Code is amended to read:

713. (a) Not later than August 1 of each year, the Department of Finance shall submit to the department a factor which reflects changes in an inflationary index developed by the Department of Finance, calculated by comparing the department's cost of salaries, staff benefits, and operating expenses paid from the Fish and Game Preservation Fund in the fiscal year ending on June 30 of that same year with those costs in the base fiscal year designated in paragraphs (1) to (5), inclusive of subdivision (b).

(b) The base years for determining the inflationary index shall be as follows:

(1) The 1977–78 fiscal year for hunting licenses and hunting license stamps.

(2) The 1984–85 fiscal year for resident bear tags.

(3) The 1980–81 fiscal year for nonresident bear tags.

(4) The 1984–85 fiscal year for deer tags.

(5) The 1982–83 fiscal year for sport fishing licenses and sport fishing license stamps.

(c) The factor shall be multiplied by the individual base fee for each license, stamp, or tag. The product shall be rounded to the nearest twenty-five cents ($0.25), and the resulting amount shall be the fee for any license year beginning on or after January 1 of the next succeeding calendar year for any license, stamp, or tag which is adjusted under this section pursuant to other provisions of this code.

SEC. 2. Section 4332 of the Fish and Game Code is amended to read:

4332. (a) Any resident of this state, 12 years of age or over, who possesses a valid hunting license, may procure one license tag for the taking of one deer by one person during the current license year, upon payment of the following fee:

(1) For the hunting year beginning July 1, 1985, the fee is seven dollars and fifty cents ($7.50).

(2) For the hunting year beginning July 1, 1986, the fee is ten dollars ($10).

(3) For the hunting years beginning on or after July 1, 1987, the fee is the base fee of ten dollars ($10) as adjusted under Section 713.

(b) Any nonresident of this state, 12 years of age or over, who

possesses a valid hunting license, may procure one license tag for the taking of one deer by one person during the current license year, upon payment of the following fee:

(1) For the hunting year beginning July 1, 1985, or July 1, 1986, the fee is one hundred dollars ($100).

(2) For the hunting years beginning on or after July 1, 1987, the fee is the base fee of one hundred dollars ($100) as adjusted under Section 713.

(c) If provided in regulations adopted by the commission under Section 200, any resident of this state, 12 years of age or over, who possesses a deer tag may procure one or more additional deer tags for the taking of one legal deer for each additional deer tag procured by that person during the current license season as provided in the regulations adopted by the commission under Section 200, upon payment of the following fee for each additional tag:

(1) For the hunting year beginning July 1, 1985, the fee is ten dollars ($10).

(2) For the hunting year beginning July 1, 1986, the fee is twelve dollars and fifty cents ($12.50).

(3) For the hunting year beginning on or after July 1, 1987, the fee is the base fee of twelve dollars and fifty cents ($12.50) as adjusted under Section 713.

(d) If provided in regulations adopted by the commission under Section 200, any nonresident of this state, 12 years of age or over, who possesses a deer tag may procure one or more additional deer tags for the taking of one legal deer for each additional deer tag procured by that person during the current license season as provided in the regulations adopted by the commission under Section 200, upon payment of the following fee for each additional deer tag:

(1) For the hunting year beginning July 1, 1985, or July 1, 1986, the fee is one hundred dollars ($100).

(2) For the hunting years beginning on or after July 1, 1987, the fee is the base fee of one hundred dollars ($100) as adjusted under Section 713.

(e) The adjustment of the base fees under Section 713, which are specified in this section, shall be applicable to the hunting license years beginning on and after July 1, 1987.

(f) Notwithstanding Section 13004 of this code or Section 13340 of the Government Code, the increased fees for deer tags received by the department pursuant to this section which are in excess of the amount of the fees for each license tag as determined by Section 4332 of this code, as amended by Chapter 1117 of the Statutes of 1983, in each year is hereby continuously appropriated to the department for expenditure for the purpose of implementing the deer herd management plans prepared pursuant to Chapter 5 (commencing with Section 450) of Division 1.

The amount appropriated for implementation of deer herd management plans by this subdivision is intended to be in addition to, and not a replacement for, the funds budgeted in that year or the

previous year to the department from the Fish and Game Preservation Fund for deer management.

(g) The amendment to this section enacted in 1984 shall become operative on July 1, 1985.

SEC. 3. (a) The Department of Fish and Game shall submit to the fiscal committee of each house of the Legislature and to the Fish and Game Commission an annual report, the first of which shall be submitted on or before January 1, 1986, concerning its deer tag program. The annual report shall include, but not be limited to, the following:

(1) The amount of revenue derived from the sale of deer tags during the previous fiscal year.

(2) A detailed analysis of expenditures of deer tag funds during the prior fiscal year and an enumeration of the benefits accrued to deer and the public as a result of the expenditures.

(3) The department's deer management program and budget for the current and succeeding fiscal years and how these programs effect implementation of the deer herd management plans required by Section 453 of the Fish and Game Code.

(b) The department shall not recommend to the commission any deer management program or any modification of the commission's deer hunting regulations submitted pursuant to Section 460 of the Fish and Game Code unless the recommendations are consistent with adopted deer herd management plans.

CHAPTER 1412

An act to amend Sections 653.5 and 653.7 of, and to amend and repeal Sections 604, 650, 651, 653, and 654 of, the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 604 of the Welfare and Institutions Code, as added by Section 3 of Chapter 1088 of the Statutes of 1982, is amended to read:

604. (a) Whenever a case is before any court upon an accusatory pleading and it is suggested or appears to the judge before whom the person is brought that the person charged was, at the date the offense is alleged to have been committed, under the age of 18 years, the judge shall immediately suspend all proceedings against the person on the charge; he or she shall examine into the age of the person, and if, from the examination, it appears to his or her satisfaction that the person was at the date the offense is alleged to have been committed under the age of 18 years, he or she shall immediately certify all of

the following to the juvenile court of the county:

(1) That the person (naming him or her) is charged with a crime (briefly stating its nature).

(2) That the person appears to have been under the age of 18 years at the date the offense is alleged to have been committed, giving the date of birth of the person when known.

(3) That proceedings have been suspended against the person on the charge by reason of his or her age, with the date of the suspension.

The judge shall attach a copy of the accusatory pleading to the certification.

(b) When a court certifies a case to the juvenile court pursuant to subdivision (a), it shall be deemed that jeopardy has not attached by reason of the proceedings prior to certification, but the court may not resume proceedings in the case, nor may a new proceeding under the general law be commenced in any court with respect to the same matter unless the juvenile court has found that the minor is not a fit subject for consideration under the juvenile court law and has ordered that proceedings under the general law resume or be commenced.

(c) The certification and accusatory pleading shall be promptly transmitted to the clerk of the juvenile court. Upon receipt thereof, the clerk of the juvenile court shall immediately notify the probation officer who shall immediately proceed in accordance with Article 16 (commencing with Section 650).

SEC. 2. Section 604 of the Welfare and Institutions Code, as added by Section 4 of Chapter 1088 of the Statutes of 1982, is repealed.

SEC. 3. Section 650 of the Welfare and Institutions Code, as added by Section 6 of Chapter 1088 of the Statutes of 1982, is amended to read:

650. (a) Juvenile court proceedings to declare a minor a ward of the court pursuant to Section 601 are commenced by the filing of a petition by the probation officer.

(b) Juvenile court proceedings to declare a minor a ward of the court pursuant to Section 602 are commenced by the filing of a petition by the prosecuting attorney.

SEC. 4. Section 650 of the Welfare and Institutions Code, as added by Section 7 of Chapter 1088 of the Statutes of 1982, is repealed.

SEC. 5. Section 651 of the Welfare and Institutions Code, as added by Section 9 of Chapter 1088 of the Statutes of 1982, is amended to read:

651. Proceedings under this chapter may be commenced either in the juvenile court for the county in which a minor resides, or in which a minor is found, or in which the circumstances exist or acts take place to bring a minor within the provisions of Section 601 or Section 602.

SEC. 6. Section 651 of the Welfare and Institutions Code, as

added by Section 10 of Chapter 1088 of the Statutes of 1982, is repealed.

SEC. 7. Section 653 of the Welfare and Institutions Code, as added by Section 12 of Chapter 1088 of the Statutes of 1982, is amended to read:

653. Whenever any person applies to the probation officer to commence proceedings in the juvenile court, the application shall be in the form of an affidavit alleging that there was or is within the county, or residing therein, a minor within the provisions of Section 601 and setting forth facts in support thereof. The probation officer shall immediately make such investigation as he or she deems necessary to determine whether proceedings in the juvenile court should be commenced.

SEC. 8. Section 653 of the Welfare and Institutions Code, as added by Section 13 of Chapter 1088 of the Statutes of 1982, is repealed.

SEC. 9. Section 653.5 of the Welfare and Institutions Code is amended to read:

653.5. (a) Whenever any person applies to the probation officer to commence proceedings in the juvenile court, the application shall be in the form of an affidavit alleging that there was or is within the county, or residing therein, a minor within the provisions of Section 602, or that a minor committed an offense described in Section 602 within the county, and setting forth facts in support thereof. The probation officer shall immediately make any investigation he or she deems necessary to determine whether proceedings in the juvenile court shall be commenced.

(b) Except as provided in subdivision (c), if the probation officer determines that proceedings pursuant to Section 650 should be commenced to declare a person to be a ward of the juvenile court on the basis that he or she is a person described in Section 602, the probation officer shall cause the affidavit to be taken to the prosecuting attorney.

(c) Notwithstanding the provisions of subdivision (b), the probation officer shall cause the affidavit to be taken within 48 hours to the prosecuting attorney in all of the following cases:

(1) If it appears to the probation officer that the minor has been referred to the probation officer for any violation of an offense listed in subdivision (b) of Section 707.

(2) If it appears to the probation officer that the minor is under 16 years of age at the date of the offense and that the offense constitutes a second felony referral to the probation officer.

(3) If it appears to the probation officer that the minor was 16 years of age or older at the date of the offense and that the offense constitutes a felony referral to the probation officer.

The provisions of subdivision (c) shall not apply to a narcotics and drug offense set forth in Section 1000 of the Penal Code.

The prosecuting attorney shall within his or her discretionary power institute proceedings in accordance with his or her role as

public prosecutor pursuant to subdivision (b) of Section 650 and Section 26500 of the Government Code. However, if it appears to the prosecuting attorney that the affidavit was not properly referred, that the offense for which the minor was referred should be charged as a misdemeanor, or that the minor may benefit from a program of informal supervision, he or she shall refer the matter to the probation officer for whatever action the probation officer may deem appropriate.

SEC. 10. Section 653.7 of the Welfare and Institutions Code is amended to read:

653.7. If the probation officer does not take action under Section 654 and does not file a petition in juvenile court within 21 court days after the application, or in the case of an affidavit alleging that a minor committed an offense described in Section 602 or alleging that a minor is within Section 602, does not cause the affidavit to be taken to the prosecuting attorney within 21 court days after the application, he or she shall endorse upon the affidavit of the applicant the decision not to proceed further and the reasons therefor and shall immediately notify the applicant of the action taken or the decision rendered by him or her under this section. The probation officer shall retain the affidavit and the endorsement thereon for a period of 30 court days after the notice to the applicant.

SEC. 11. Section 654 of the Welfare and Institutions Code, as added by Section 17 of Chapter 1088 of the Statutes of 1982, is amended to read:

654. In any case in which a probation officer, after investigation of an application for petition or other investigation he or she is authorized or directed to make pursuant to this chapter concludes that a minor is within the jurisdiction of the juvenile court or will probably soon be within such jurisdiction, he or she may, in lieu of filing a petition to declare a minor a ward of the court under Section 601 or requesting that a petition be filed by the prosecuting attorney to declare a minor a ward of the court under Section 602 or subsequent to dismissal of a petition already filed, and with consent of the minor and the minor's parent or guardian, delineate specific programs of supervision for the minor, for not to exceed six months, and attempt thereby to adjust the situation which brings the minor within the jurisdiction of the court or creates the probability that he or she will soon be within such jurisdiction. Nothing in this section shall be construed to prevent the probation officer from filing a petition or requesting the prosecuting attorney to file a petition at any time within the six-month period. If the probation officer determines that the minor has not involved himself or herself in the specific programs within 60 days, the probation officer shall immediately file a petition or request that a petition be filed by the prosecuting attorney. However, when in the judgment of the probation officer the interest of the minor and the community can be protected, the probation officer shall make a diligent effort to proceed under this section.

The program of supervision of the minor undertaken pursuant to this section may call for the minor to obtain care and treatment for the misuse of restricted dangerous drugs or addiction to narcotics from a county mental health service or other appropriate community agency.

Further, the probation officer with the consent of the minor and the minor's parent or guardian may provide any of the following services in lieu of filing a petition:

(a) Maintain and operate sheltered-care facilities, or contract with private or public agencies to provide such services. The placement shall be limited to a maximum of 90 days. Counseling services shall be extended to the sheltered minor and his or her family during this period of diversion services. The minor and his or her parents may be required to make full or partial reimbursement for the services rendered the minor and his or her family during the diversion process. Referrals for sheltered-care diversion may be made by the minor, his or her family, schools, any law enforcement agency, or any other private or public social service agency.

(b) Maintain and operate crisis resolution homes, or contract with private or public agencies offering those services. Residence at the facilities shall be limited to 20 days during which period individual and family counseling shall be extended the minor and his or her family. Failure to resolve the crisis within the 20-day period may result in the minor's referral to a sheltered-care facility for a period not to exceed 90 days. Referrals shall be accepted from the minor, his or her family, schools, any law enforcement agency, or any other private or public social service agency. The minor, his or her parents, or both, may be required to reimburse the county for the cost of services rendered at a rate to be determined by the county board of supervisors.

(c) Maintain and operate counseling and educational centers, or contract with private and public agencies, societies or corporations whose purpose is to provide vocational training or skills. The centers may be operated separately or in conjunction with crisis resolution homes to be operated by the probation officer. The probation officer may make referrals to the appropriate existing private or public agency offering similar services when available.

At the conclusion of the program of supervision undertaken pursuant to this section, the probation officer shall prepare and maintain a followup report of the actual program measures taken.

SEC. 12. Section 654 of the Welfare and Institutions Code, as added by Section 18 of Chapter 1088 of the Statutes of 1982, is repealed.

CHAPTER 1413

An act to amend Section 311.2 of the Penal Code, relating to crimes.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 311.2 of the Penal Code is amended to read:

311.2. (a) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, or prints, with intent to distribute or to exhibit to others, or who offers to distribute, distributes, or exhibits to others, any obscene matter is guilty of a misdemeanor.

(b) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, or prints, with intent to distribute or to exhibit to others for commercial consideration, or who offers to distribute, distributes, or exhibits to others for commercial consideration, any obscene matter, knowing that the matter depicts a person under the age of 18 years personally engaging in or personally simulating sexual intercourse, masturbation, sodomy, bestiality, or oral copulation is guilty of a felony and shall be punished by imprisonment in state prison for two, three, or six years, or by a fine not exceeding one hundred thousand dollars ($100,000), in the absence of a finding that the defendant would be incapable of paying such a fine, or by both the fine and imprisonment.

(c) The provisions of this section with respect to the exhibition of, or the possession with intent to exhibit, any obscene matter shall not apply to a motion picture operator or projectionist who is employed by a person licensed by any city or county and who is acting within the scope of his or her employment, provided that the operator or projectionist has no financial interest in the place wherein he or she is so employed.

(d) Except as otherwise provided in subdivision (c), the provisions of subdivision (a) or (b) with respect to the exhibition of, or the possession with intent to exhibit, any obscene matter shall not apply to any person who is employed by a person licensed by any city or county and who is acting within the scope of his or her employment, provided that the employed person has no financial interest in the place wherein he or she is so employed and has no control, directly or indirectly, over the exhibition of the obscene matter.

CHAPTER 1414

An act to amend Sections 245.1 and 12020 of, and to add Section 244.5 to, the Penal Code, relating to weapons.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 244.5 is added to the Penal Code, to read:

244.5. (a) Every person who commits an assault upon the person of another with a weapon that is capable of temporarily immobilizing the victim by the infliction of an electrical charge is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not exceeding one year, or by fine not exceeding one thousand dollars ($1,000), or by both such fine and imprisonment.

(b) Every person who commits an assault upon the person of a peace officer or firefighter with a weapon that is capable of temporarily immobilizing the victim by the infliction of an electrical charge, and who knows or reasonably should know that the person is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison, or in a county jail, for a term not exceeding one year.

(c) This section shall not be construed to preclude or in any way limit the applicability of Section 245 in any criminal prosecution.

SEC. 2. Section 245.1 of the Penal Code is amended to read:

245.1. As used in Sections 148.2, 241, 243, 244.5, and 245, "fireman" or "firefighter" includes any person who is an officer, employee or member of a fire department or fire protection or firefighting agency of the federal government, the State of California, a city, county, city and county, district, or other public or municipal corporation or political subdivision of this state, whether such person is a volunteer or partly paid or fully paid, while he or she is actually engaged in firefighting, fire supervision, fire suppression, fire prevention, or fire investigation.

As used in Section 148.2, "emergency rescue personnel" means any person who is an officer, employee or member of a fire department or fire protection or firefighting agency of the federal government, the State of California, a city, county, city and county, district, or other public or municipal corporation or political subdivision of this state, whether such person is a volunteer or partly paid or fully paid, while he or she is actually engaged in the on-the-site rescue of persons or property during an emergency as defined by subdivision (c) of Section 148.3.

SEC. 3. Section 12020 of the Penal Code is amended to read:

12020. (a) Any person in this state who manufactures or causes

to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any firearm which is not immediately recognizable as a firearm, any ammunition which contains or consists of any flechette dart, any bullet containing or carrying an explosive agent, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, nunchaku, sandclub, sandbag, sawed-off shotgun, or metal knuckles, or who carries concealed upon his or her person any explosive substance, other than fixed ammunition or who carries concealed upon his or her person any dirk or dagger, is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison. A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

(b) Subdivision (a) does not apply to any of the following:

(1) The manufacture, possession, transportation or use, with blank cartridges, of sawed-off shotguns solely as props for motion picture film or television program production when authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) of this chapter and not in violation of federal law.

(2) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(3) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(4) Any antique firearm. For purposes of this section, "antique firearm" means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(5) Tracer ammunition manufactured for use in shotguns.

(6) Any firearm or ammunition which is a curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess such items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code from possessing such firearms or ammunition who obtains title to such items by bequest or intestate succession may retain title for not more than one year, but actual possession of such items at any time shall be punishable pursuant to Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code. Within such year

the person shall transfer title to such firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(7) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code from possessing such weapons who obtains title to such weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of such weapons at any time is punishable pursuant to Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code. Within such year the person shall transfer title to such weapons by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(c) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison.

(d) (1) As used in this section, a "sawed-off shotgun" means any firearm (including any revolver) manufactured, designed, or converted to fire shotgun ammunition having a barrel or barrels of less than 18 inches in length, or a rifle having a barrel or barrels of less than 16 inches in length, or any weapon made from a rifle or shotgun (whether by manufacture, alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches.

(2) As used in this section, a "nunchaku" means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

(3) As used in this section, a "wallet gun" means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if such firearm may be fired while mounted or enclosed in such case.

(4) As used in this section, a "cane gun" means any firearm mounted or enclosed in a stick, staff, rod, crutch or similar device, designed to be or capable of being used as an aid in walking, if such firearm may be fired while mounted or enclosed therein.

(5) As used in this section, a "flechette dart" means a dart, capable of being fired from a firearm, which measures approximately one

inch in length, with tail fins which take up five-sixteenths of an inch of the body.

(6) As used in this section, "metal knuckles" means any device or instrument made wholly or partially of metal which is worn for purposes of offense or defense in or on the hand and which either protects the wearer's hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow. The metal contained in the device may help support the hand or fist, provide a shield to protect it, or consist of projections or studs which would contact the individual receiving a blow.

(e) Knives carried in sheaths which are worn openly suspended from the waist of the wearer are not concealed within the meaning of this section.

SEC. 4. Section 12020 of the Penal Code is amended to read:

12020. (a) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any firearm which is not immediately recognizable as a firearm, any ammunition which contains or consists of any flechette dart, any bullet containing or carrying an explosive agent, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, nunchaku, sandclub, sandbag, sawed-off shotgun, or metal knuckles, or who carries concealed upon his or her person any explosive substance, other than fixed ammunition or who carries concealed upon his or her person any dirk or dagger, is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison. A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

(b) Subdivision (a) does not apply to any of the following:

(1) The manufacture, possession, transportation or use, with blank cartridges, of sawed-off shotguns solely as props for motion picture film or television program production when authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) of this chapter and not in violation of federal law.

(2) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(3) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(4) Any antique firearm. For purposes of this section, "antique firearm" means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United

States and is not readily available in the ordinary channels of commercial trade.

(5) Tracer ammunition manufactured for use in shotguns.

(6) Any firearm or ammunition which is a curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess such items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code from possessing such firearms or ammunition who obtains title to such items by bequest or intestate succession may retain title for not more than one year, but actual possession of such items at any time shall be punishable pursuant to Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code. Within such year the person shall transfer title to such firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(7) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code from possessing these weapons who obtains title to these weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of these weapons at any time is punishable pursuant to Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code. Within that year the person shall transfer title to the weapons by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a). The exemption provided in this subdivision does not apply to pen guns.

(c) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison.

(d) (1) As used in this section, a "sawed-off shotgun" means any firearm (including any revolver) manufactured, designed, or converted to fire shotgun ammunition having a barrel or barrels of less than 18 inches in length, or a rifle having a barrel or barrels of less than 16 inches in length, or any weapon made from a rifle or shotgun (whether by manufacture, alteration, modification, or otherwise) if such weapon as modified has an overall length of less

than 26 inches.

(2) As used in this section, a "nunchaku" means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

(3) As used in this section, a "wallet gun" means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if such firearm may be fired while mounted or enclosed in such case.

(4) As used in this section, a "cane gun" means any firearm mounted or enclosed in a stick, staff, rod, crutch or similar device, designed to be or capable of being used as an aid in walking, if such firearm may be fired while mounted or enclosed therein.

(5) As used in this section, a "flechette dart" means a dart, capable of being fired from a firearm, which measures approximately one inch in length, with tail fins which take up five-sixteenths of an inch of the body.

(6) As used in this section, "metal knuckles" means any device or instrument made wholly or partially of metal which is worn for purposes of offense or defense in or on the hand and which either protects the wearer's hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow. The metal contained in the device may help support the hand or fist, provide a shield to protect it, or consist of projections or studs which would contact the individual receiving a blow.

(e) Knives carried in sheaths which are worn openly suspended from the waist of the wearer are not concealed within the meaning of this section.

SEC. 5. Section 4 of this bill incorporates amendments to Section 12020 of the Penal Code proposed by both this bill and AB 3468. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 12020 of the Penal Code, and (3) this bill is enacted after AB 3468, in which case Section 3 of this bill shall not become operative.

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

CHAPTER 1415

An act to add Sections 1026.6 and 1615 to the Penal Code, and to amend Sections 702.3 and 5328.2 of the Welfare and Institutions Code, relating to insanity.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 1026.6 is added to the Penal Code, to read:

1026.6. Whenever any person who has been committed to a state hospital pursuant to Section 1026 is released for any reason, including placement on outpatient status, the director of the hospital shall notify the county mental health director of the county, and the chief law enforcement officer of the jurisdiction, in which the person will reside upon release, if that information is available.

SEC. 2. Section 1615 is added to the Penal Code, to read:

1615. Pursuant to Section 5709.8 of the Welfare and Institutions Code, the State Department of Mental Health shall be responsible for the community treatment and supervision of judicially committed patients. These services shall be available on a county or regional basis. The department may provide these services directly or through contract with private providers or counties.

The department shall contact all county mental health programs by January 1, 1986, to determine their interest in providing an appropriate level of supervision and treatment of judicially committed patients at reasonable cost. County mental health agencies may agree or refuse to operate such a program.

SEC. 3. Section 702.3 of the Welfare and Institutions Code is amended to read:

702.3. Notwithstanding any other provision of the law:

(a) When a minor denies, by a plea of not guilty by reason of insanity, the allegations of a petition filed pursuant to Section 602 of the Welfare and Institutions Code, and also joins with that denial a general denial of the conduct alleged in the petition, he or she shall first be subject to a hearing as if he or she had made no allegation of insanity. If the petition is sustained or if the minor denies the allegations only by reason of insanity, then a hearing shall be held on the question of whether the minor was insane at the time the offense was committed.

(b) If the court finds that the minor was insane at the time the offense was committed, the court, unless it shall appear to the court that the minor has fully recovered his or her sanity, shall direct that the minor be confined in a state hospital for the care and treatment of the mentally disordered or any other appropriate public or private mental health facility approved by the county mental health director, or the court may order the minor to undergo outpatient

treatment as specified in Section 1026.1 of the Penal Code. The court shall transmit a copy of its order to the county mental health director or his or her designee. If the allegations of the petition specifying any of the violent crimes including any enhancements enumerated in Section 1026 of the Penal Code are found to be true, the court shall direct that the minor be confined in a state hospital or other public or private mental health facility approved by the county mental health director for a minimum of 90 days, before the minor may be released on outpatient treatment. Prior to making the order directing that the minor be confined in a state hospital or other facility or ordered to undergo outpatient treatment, the court shall order the county mental health director or his or her designee to evaluate the minor and to submit to the court within 15 judicial days of the order his or her written recommendation as to whether the minor should be required to undergo outpatient treatment or committed to a state hospital or another mental health facility. If, however, it shall appear to the court that the minor has fully recovered his or her sanity, the minor shall be remanded to the custody of the probation department until his or her sanity shall have been finally determined in the manner prescribed by law. A minor committed to a state hospital or other facility or ordered to undergo outpatient treatment shall not be released from confinement or the required outpatient treatment unless and until the court which committed him or her shall, after notice and hearing, in the manner provided in Section 1026.2 of the Penal Code, find and determine that his or her sanity has been restored.

(c) The procedures set forth in Sections 1026, 1026.1 1026.2, 1026.3, 1026.4, 1026.5, and 1027 of the Penal Code shall be applicable to minors pursuant to this section, except that, in cases involving minors, the probation department, rather than the sheriff, shall have jurisdiction over the minor.

(d) No minor may be committed pursuant to this section for a period longer than the jurisdictional limits of the juvenile court, pursuant to Section 607, unless, at the conclusion of the commitment, by reason of a mental disease, defect, or disorder, he or she represents a substantial danger of physical harm to others, in which case the commitment for care and treatment beyond the jurisdictional age may be extended by proceedings in superior court in accordance with and under the circumstances specified in subdivision (b) of Section 1026.5 of the Penal Code.

(e) The provision of a jury trial in superior court on the issue of extension of commitment shall not be construed to authorize the determination of any issue in juvenile court proceedings to be made by a jury.

SEC. 3.5. Section 702.3 of the Welfare and Institutions Code is amended to read:

702.3. Notwithstanding any other provision of the law:

(a) When a minor denies, by a plea of not guilty by reason of insanity, the allegations of a petition filed pursuant to Section 602 of

the Welfare and Institutions Code, and also joins with that denial a general denial of the conduct alleged in the petition, he or she shall first be subject to a hearing as if he or she had made no allegation of insanity. If the petition is sustained or if the minor denies the allegations only by reason of insanity, then a hearing shall be held on the question of whether the minor was insane at the time the offense was committed.

(b) If the court finds that the minor was insane at the time the offense was committed, the court, unless it shall appear to the court that the minor has fully recovered his or her sanity, shall direct that the minor be confined in a state hospital for the care and treatment of the mentally disordered or any other appropriate public or private mental health facility approved by the county mental health director, or the court may order the minor to undergo outpatient treatment as specified in Title 15 (commencing with Section 1600) of Part 2 of the Penal Code. The court shall transmit a copy of its order to the county mental health director or his or her designee. If the allegations of the petition specifying any felony are found to be true, the court shall direct that the minor be confined in a state hospital or other public or private mental health facility approved by the county mental health director for a minimum of 180 days, before the minor may be released on outpatient treatment. Prior to making the order directing that the minor be confined in a state hospital or other facility or ordered to undergo outpatient treatment, the court shall order the county mental health director or his or her designee to evaluate the minor and to submit to the court within 15 judicial days of the order his or her written recommendation as to whether the minor should be required to undergo outpatient treatment or committed to a state hospital or another mental health facility. If, however, it shall appear to the court that the minor has fully recovered his or her sanity the minor shall be remanded to the custody of the probation department until his or her sanity shall have been finally determined in the manner prescribed by law. A minor committed to a state hospital or other facility or ordered to undergo outpatient treatment shall not be released from confinement or the required outpatient treatment unless and until the court which committed him or her shall, after notice and hearing, in the manner provided in Section 1026.2 of the Penal Code, find and determine that his or her sanity has been restored.

(c) The procedures set forth in Sections 1026, 1026.1, 1026.2, 1026.3, 1026.4, 1026.5, and 1027 of the Penal Code, and in Title 15 (commencing with Section 1600) of Part 2 of the Penal Code, shall be applicable to minors pursuant to this section, except that, in cases involving minors, the probation department rather than the sheriff, shall have jurisdiction over the minor.

(d) No minor may be committed pursuant to this section for a period longer than the jurisdictional limits of the juvenile court, pursuant to Section 607, unless, at the conclusion of the commitment, by reason of a mental disease, defect, or disorder, he or she

represents a substantial danger of physical harm to others, in which case the commitment for care and treatment beyond the jurisdictional age may be extended by proceedings in superior court in accordance with and under the circumstances specified in subdivision (b) of Section 1026.5 of the Penal Code.

(e) The provision of a jury trial in superior court on the issue of extension of commitment shall not be construed to authorize the determination of any issue in juvenile court proceedings to be made by a jury.

SEC. 4. Section 5328.2 of the Welfare and Institutions Code is amended to read:

5328.2. Notwithstanding Section 5328, movement and identification information and records regarding a patient who is committed to the department, state hospital, or any other public or private mental health facility approved by the county mental health director for observation or for an indeterminate period as a mentally disordered sex offender, or regarding a patient who is committed to the department, to a state hospital, or any other public or private mental health facility approved by the county mental health director under Section 1026 or 1370 of the Penal Code or receiving treatment pursuant to Section 5300 of this code, shall be forwarded immediately without prior request to the Department of Justice. Except as otherwise provided by law, information automatically reported under this section shall be restricted to name, address, fingerprints, date of admission, date of discharge, date of escape or return from escape, date of any home leave, parole or leave of absence and, if known, the county in which the person will reside upon release. The Department of Justice may in turn furnish information reported under this section pursuant to Section 11105 or 11105.1 of the Penal Code. It shall be a misdemeanor for recipients furnished with this information to in turn furnish the information to any person or agency other than those specified in Section 11105 or 11105.1 of the Penal Code.

SEC. 5. Section 2 of this act shall be operative only if AB 2381 is enacted and becomes effective on or before January 1, 1985, and adds Section 5709.8 to the Welfare and Institution Code.

SEC. 5.5. Section 3.5 of this bill incorporates amendments to Section 702.3 of the Welfare and Institutions Code proposed by both this bill and SB 1984. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 702.3 of the Welfare and Institutions Code, and (3) this bill is enacted after SB 1984, in which case Section 3 of this bill shall not become operative.

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

or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1416

An act to amend Section 1026.2 of the Penal Code, relating to crimes.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 1026.2 of the Penal Code is amended to read:

1026.2. (a) An application for the release of a person who has been committed to a state hospital or other treatment facility, as provided in Section 1026, upon the ground that sanity has been restored, may be made to the superior court of the county from which the commitment was made, either by the person, or by the medical director of the state hospital or other treatment facility to which the person is committed or by the county mental health director where the person is on outpatient status under Title 15 (commencing with Section 1600) of Part 2. The court shall give notice of the hearing date to the prosecuting attorney, the county mental health director or a designee, and the medical director or person in charge of the facility providing treatment to the committed person at least 15 judicial days in advance of the hearing date.

(b) Pending the hearing, the medical director or person in charge of the facility in which the person is confined shall prepare a summary of the person's programs of treatment and shall forward the summary to the county mental health director or a designee and to the court. The county mental health director or a designee shall review the summary and shall designate a facility within a reasonable distance from the court in which the person may be detained pending the hearing on the application for release. The facility so designated shall continue the program of treatment, shall provide adequate security, and shall, to the greatest extent possible, minimize interference with the person's program of treatment.

(c) A designated facility need not be approved for 72-hour treatment and evaluation pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code); however, a county jail may not be designated unless the services specified above are provided, and accommodations are provided which ensure both the safety of the person and the safety of the general population of the jail. If there is evidence that the treatment program is not

being complied with, or accommodations have not been provided which ensure both the safety of the committed person and the safety of the general population of the jail, the court shall order the person transferred to an appropriate facility or make any other appropriate order, including continuance of the proceedings.

(d) No hearing upon the application for release shall be allowed until the person committed shall have been confined or placed on outpatient status or on parole under Section 1611 for a period of not less than 90 days from the date of the order of commitment. If the finding of the court is adverse to releasing the person on the ground that sanity has not been restored, no application shall be filed by the person until one year has elapsed from the date of hearing upon the last preceding application. In any hearing authorized by this section, the burden of proving that sanity has been restored shall be upon the applicant. The court shall notify the county mental health director or a designee and the medical director or person in charge of the facility providing treatment to the committed person whether or not the defendant was found by the court to have recovered sanity.

(e) If the application for the release is not made by the medical director of the state hospital or other treatment facility to which the person is committed or by the county mental health director where the person is on outpatient status under Title 15 (commencing with Section 1600), no action on the application shall be taken by the court without first obtaining the written recommendation of the medical director of the state hospital or other treatment facility or by the county mental health director where the person is on outpatient status under Title 15 (commencing with Section 1600).

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

SEC. 3. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1417

An act to amend Sections 23170, 23175, 23203, and 23206 of the Vehicle Code, relating to traffic offenses.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 23170 of the Vehicle Code is amended to read:

23170. If any person is convicted of a violation of Section 23152 and the offense occurred within five years of two prior offenses which resulted in convictions of violations of Section 23152 or 23153 or of two prior offenses which resulted in convictions of violations of Section 23103 as specified in Section 23103.5, or any combination of two of these prior offenses, that person shall be punished by imprisonment in the county jail for not less than 120 days nor more than one year and by a fine of not less than three hundred ninety dollars ($390) nor more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (5) of subdivision (a) of Section 13352.

SEC. 1.5. Section 23170 of the Vehicle Code is amended to read:

23170. If any person is convicted of a violation of Section 23152 and the offense occurred within five years of two separate violations of Section 23152 or 23153, Section 23103 as specified in Section 23103.5, or any combination thereof, which resulted in convictions, that person shall be punished by imprisonment in the county jail for not less than 120 days nor more than one year and by a fine of not less than three hundred ninety dollars ($390) nor more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (5) of subdivision (a) of Section 13352.

SEC. 2. Section 23175 of the Vehicle Code is amended to read:

23175. If any person is convicted of a violation of Section 23152 and the offense occurred within five years of three or more prior offenses which resulted in convictions of violations of Section 23152 or 23153 or of three or more prior offenses which resulted in convictions of violations of Section 23103 as specified in Section 23103.5, or any combination of three or more of these prior offenses, that person shall be punished by imprisonment in the county jail for not less than 180 days nor more than one year, and by a fine of not less than three hundred ninety dollars ($390) nor more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (7) of subdivision (a) of Section 13352.

SEC. 2.5. Section 23175 of the Vehicle Code is amended to read:

23175. If any person is convicted of a violation of Section 23152 and the offense occurred within five years of three or more separate violations of Section 23152 or 23153, Section 23103 as specified in Section 23103.5, or any combination thereof, which resulted in convictions, that person shall be punished by imprisonment in the

county jail for not less than 180 days nor more than one year, and by a fine of not less than three hundred ninety dollars ($390) nor more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (7) of subdivision (a) of Section 13352.

SEC. 3. Section 23203 of the Vehicle Code is amended to read:

23203. (a) If a person's privilege to operate a motor vehicle is restricted by a court pursuant to this article, the court shall clearly mark the restriction and the dates of the restriction on each of that person's operator's licenses and promptly notify the Department of Motor Vehicles of the terms of the restriction in a manner prescribed by the department. The department shall place that restriction on the person's records in the department and enter the restriction on any license subsequently issued by the department to that person during the period of the restriction.

(b) If the court removes a restriction before the end of the previously specified term pursuant to Section 23168, the court shall so mark the person's operator's license in a manner prescribed by the department and promptly notify the department of the removal of the restriction.

(c) If a person is placed on probation pursuant to this article, the court shall promptly notify the Department of Motor Vehicles of the probation and probationary term and conditions in a manner prescribed by the department. The department shall place the fact of probation and the probationary term and conditions on the person's records in the department.

SEC. 4. Section 23206 of the Vehicle Code is amended to read:

23206. (a) If any person is convicted of a violation of Section 23152 or 23153, the court shall not stay or suspend pronouncement of sentencing and shall pronounce sentence in conjunction with the conviction in a reasonable time, including time for receipt of any presentence investigation report ordered pursuant to Section 23205.

(b) If any person is convicted of a violation of Section 23152 or 23153 and is granted probation, the terms and conditions of probation shall include, but not be limited to the following:

(1) A period of probation not less than three years.

(2) A requirement that the person shall not drive a vehicle with any measurable amount of alcohol in his or her blood.

(3) A requirement that the person, if arrested for a violation of Section 23152 or 23153, shall not refuse to submit to a chemical test of his or her blood, breath, or urine, pursuant to Section 13353, for the purpose of determining the alcoholic content of his or her blood.

(4) A requirement that the person shall not commit any criminal offense.

(c) The court shall not absolve a person who is convicted of a violation of Section 23152 or 23153 from the obligation of spending the minimum time in confinement, if any, or of paying the minimum fine provided in this article.

(d) In addition to any other provision of law, if any person violates paragraph (3) of subdivision (b), or violates paragraph (2) of subdivision (b) and the person had a blood alcohol concentration of over 0.04 percent as determined by a chemical test, the court shall revoke or terminate the person's probation as provided by Section 23207, irrespective of any other proceeding, and shall only grant a new term of probation on the added condition that the person be confined in the county jail for not less than 48 hours for each of these violations of probation, except in unusual cases where the interests of justice would best be served if this additional condition were not imposed.

SEC. 5. Section 1.5 of this bill incorporates amendments to Section 23170 of the Vehicle Code proposed by both this bill and AB 3833. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 23170 of the Vehicle Code, and (3) this bill is enacted after AB 3833, in which case Section 23170 of the Vehicle Code, as amended by AB 3833, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Section 1 of this bill shall not become operative.

SEC. 6. Section 2.5 of this bill incorporates amendments to Section 23175 of the Vehicle Code proposed by both this bill and AB 3833. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 23175 of the Vehicle Code, and (3) this bill is enacted after AB 3833, in which case Section 23175 of the Vehicle Code, as amended by AB 3833, shall remain operative only until the operative date of this bill, at which time Section 2.5 of this bill shall become operative, and Section 2 of this bill shall not become operative.

SEC. 7. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 8. This act shall become operative on July 1, 1985.

CHAPTER 1418

An act to amend Section 243.4 of the Penal Code, relating to crimes.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 243.4 of the Penal Code is amended to read:

243.4. (a) Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, gratification, or abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.

(b) Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, gratification, or abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.

(c) As used in this section, "intimate part" means the sexual organ, anus, groin, or buttocks of any person, and the breast of a female. Sexual battery does not include the crime of rape as defined in Sections 261 and 289. As used in this section, "touches" means physical contact with the skin of another person.

As used in this section, "seriously disabled" means a person with severe physical or sensory disabilities.

As used in this section, "medically incapacitated" means a person who is incapacitated as a result of prescribed sedatives, anesthesia or other medication.

As used in this section, "institutionalized" means a person who is located voluntarily or involuntarily in a hospital, medical treatment facility, nursing home, acute care facility, or mental hospital.

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

CHAPTER 1419

An act to amend Section 290 of the Penal Code, relating to crimes.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 290 of the Penal Code is amended to read:

290. (a) Any person who, since the first day of July, 1944, has been or is hereafter convicted in this state of the offense of assault with intent to commit rape or sodomy under Section 220, or of any offense defined in Section 266, 267, 285, 286, 288, 288a, 289, 647a, subdivision 2 or 3 of Section 261, subdivision (a) or (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses; or any person who since that date or at any time hereafter is discharged or paroled from a penal institution where he or she was confined because of the commission or attempt to commit one of the above-mentioned offenses; or any person who since that date or at any time hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code; or any person who has been since that date or is hereafter convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses, shall, within 30 days after the effective date of this section or within 14 days of coming into any county or city, or city and county in which he or she temporarily resides or is domiciled for that length of time register with the chief of police of the city in which he or she is domiciled or the sheriff of the county if he or she is domiciled in an unincorporated area.

(b) Any person who, after the first day of August, 1950, is discharged or paroled from a jail, prison, school, road camp, or other institution where he or she was confined because of the commission or attempt to commit one of the above-mentioned offenses or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code shall, prior to discharge, parole, or release, be informed of his duty to register under this section by the official in charge of the place of confinement or hospital and the official shall require the person to read and sign such form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person, and shall send two or, if the conviction which makes the person subject to this section is a felony conviction, shall, not later than 45 days prior to the scheduled release of the person, send four copies to the Department of Justice, which, in turn, shall forward one copy to the appropriate law

enforcement agency having local jurisdiction where the person expects to reside upon discharge, parole, or release, and, if the conviction which makes the person subject to this section is a felony conviction, one copy to the prosecuting agency which prosecuted the person and one copy to the court where the person was prosecuted. All such forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within such times as to be received by the local law enforcement agency, prosecuting agency, and court 30 days prior to the discharge, parole, or release of the person.

(c) Any person who after the first day of August, 1950, is convicted in this state of the commission or attempt to commit any of the above-mentioned offenses and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted and the court shall require the person to read and sign such form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, and shall send two copies to the Department of Justice, which, in turn, shall forward one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) The registration shall consist of (a) a statement in writing signed by the person, giving such information as may be required by the Department of Justice, and (b) the fingerprints and photograph of the person. Within three days thereafter, the registering law enforcement agency shall forward the statement, fingerprints, and photograph to the Department of Justice.

(e) If any person required to register hereunder changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency with whom he or she last registered of the new address. The law enforcement agency shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence.

(f) Any person required to register under this section who violates any of the provisions thereof is guilty of a misdemeanor. Any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy, or of any violation of Section 286, 288, 288a, 289, or subdivision 2 or 3 of Section 261, and who is required to register under this section who shall willfully violate any of the provisions thereof is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days nor more than one year in the county jail. In no event does the court have the power to absolve

a person who willfully violates this section from the obligation of spending at least 90 days of confinement in the county jail and of completing probation of at least one year.

(g) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the Board of Prison Terms, the Youth Authority, or the court, as the case may be, shall order the parole or probation of the person revoked.

(h) The statements, photographs, and fingerprints herein required shall not be open to inspection by the public or by any person other than a regularly employed peace or other law enforcement officer.

(i) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including fire fighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision does not apply to any person temporarily released under guard from the institution where he is confined.

(j) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(k) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (f) if the person did register within 30 days.

CHAPTER 1420

An act to add Section 4537 to the Penal Code, and to amend Section 828 of, and to add Section 1155 to, the Welfare and Institutions Code, relating to escapes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 4537 is added to the Penal Code, to read:

4537. The person in charge of any secure detention facility, including, but not limited to, a prison, a juvenile hall, a county jail, or any institution under the jurisdiction of the California Youth Authority, shall promptly notify the chief of police of the city in which the facility is located, or the sheriff of the county if the facility is located in an unincorporated area, of an escape by a person in its custody alleged to have committed or found to have committed, an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code. The person in charge of any secure detention facility under the jurisdiction of the Department of Corrections shall release the name of, and any descriptive information about, any minor in the custody of the department who has escaped, to other law enforcement agencies or to other persons if the release of the information would be necessary to assist in recapturing the minor or would be necessary to protect the public from substantial physical harm.

SEC. 2. Section 828 of the Welfare and Institutions Code is amended to read:

828. (a) Except as provided in Sections 389 and 781 of this code or 1203.45 of the Penal Code, any information gathered by a law enforcement agency relating to the taking of a minor into custody may be disclosed to another law enforcement agency, or to any person or agency which has a legitimate need for the information for purposes of official disposition of a case. When the disposition of a taking into custody is available, it shall be included with any information disclosed.

A court shall consider any information relating to the taking of a minor into custody, if the information is not contained in a record which has been sealed, for purposes of determining whether adjudications of commission of crimes as a juvenile warrant a finding that there are circumstances in aggravation pursuant to Section 1170 of the Penal Code or to deny probation.

(b) When a law enforcement agency has been notified pursuant to Section 1155 that a minor alleged to have committed or found to have committed an offense listed in subdivision (b) of Section 707 has escaped from a secure detention facility, the law enforcement agency shall release the name of, and any descriptive information about, the minor to a person who specifically requests this information. The law enforcement agency may release the information of the minor without a request to do so if it finds that release of the information would be necessary to assist in recapturing the minor or that it would be necessary to protect the public from substantial physical harm.

SEC. 3. Section 1155 is added to the Welfare and Institutions Code, to read:

1155. The person in charge of any secure detention facility,

including, but not limited to, a prison, a juvenile hall, a county jail, or any institution under the jurisdiction of the California Youth Authority, shall promptly notify the chief of police of the city in which the facility is located, or the sheriff of the county if the facility is located in an unincorporated area, of an escape by a person in its custody alleged to have committed or found to have committed, an offense listed in subdivision (b) of Section 707. The person in charge of any secure detention facility under the jurisdiction of the Department of Corrections shall release the name of, and any descriptive information about, any minor in the custody of the department who has escaped, to other law enforcement agencies or to other persons if the release of the information would be necessary to assist in recapturing the minor or would be necessary to protect the public from substantial physical harm.

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

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the life and property of citizens from the potential criminal activity of violent juveniles who escape from secure detention facilities, it is necessary that this bill take effect immediately.

CHAPTER 1421

An act to add Section 1228 to the Evidence Code, relating to child abuse.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 1228 is added to the Evidence Code, to read:

1228. Notwithstanding any other provision of law, for the purpose of establishing the elements of the crime in order to admit as evidence the confession of a person accused of violating Section 261, 264.1, 285, 286, 288, 288a, 289, or 647a of the Penal Code, a court, in its discretion, may determine that a statement of the complaining witness is not made inadmissible by the hearsay rule if it finds all of

the following:

(a) The statement was made by a minor child under the age of 12, and the contents of the statement were included in a written report of a law enforcement official or an employee of a county welfare department.

(b) The statement describes the minor child as a victim of sexual abuse.

(c) The statement was made prior to the defendant's confession. The court shall view with caution the testimony of a person recounting hearsay where there is evidence of personal bias or prejudice.

(d) There are no circumstances, such as significant inconsistencies between the confession and the statement concerning material facts establishing any element of the crime or the identification of the defendant, that would render the statement unreliable.

(e) The minor child is found to be unavailable pursuant to paragraph (3) of subdivision (a) of Section 240 or refuses to testify.

(f) The confession was memorialized in a trustworthy fashion by a law enforcement official.

If the prosecution intends to offer a statement of the complaining witness pursuant to this section, the prosecution shall serve a written notice upon the defendant at least 10 days prior to the hearing or trial at which the prosecution intends to offer the statement.

If the statement is offered during trial, the court's determination shall be made out of the presence of the jury. If the statement is found to be admissible pursuant to this section, it shall be admitted out of the presence of the jury and solely for the purpose of determining the admissibility of the confession of the defendant.

CHAPTER 1422

An act to add Sections 190.8 and 190.9 to the Penal Code, relating to crimes.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 190.8 is added to the Penal Code, to read:

190.8. In any case in which a death sentence has been imposed, the record on appeal shall be expeditiously certified. If the record has not been certified within 60 days of the date it is delivered to the parties or their counsel, the trial court shall monitor the preparation of the record monthly to expedite certification and report the status of the record to the California Supreme Court.

Corrections to the record shall not be required to include simple typographical errors that cannot conceivably cause confusion.

SEC. 2. Section 190.9 is added to the Penal Code, to read:

190.9. In any case in which a death sentence may be imposed, all proceedings conducted after the effective date of this section in the justice, municipal, and superior courts, including proceedings in chambers, shall be conducted on the record with a court reporter present.

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

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1423

An act to amend Section 767 of the Evidence Code, to amend Sections 273a, 273d, 868.5, 868.7, 1048, 1203.066, 1346, and 11166 of the Penal Code, and to amend Section 827 of the Welfare and Institutions Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 767 of the Evidence Code is amended to read:

767. (a) Except under special circumstances where the interests of justice otherwise require:

(1) A leading question may not be asked of a witness on direct or redirect examination.

(2) A leading question may be asked of a witness on cross-examination or recross-examination.

(b) The court may in the interests of justice permit a leading question to be asked of a child under 10 years of age in a case involving a prosecution under Section 273a, 273d, or 288 of the Penal Code.

SEC. 2. Section 273a of the Penal Code is amended to read:

273a. (1) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical

pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for 2, 4, or 6 years.

(2) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

SEC. 3. Section 273d of the Penal Code is amended to read:

273d. Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 4, or 6 years, or in the county jail for not more than one year.

SEC. 4. Section 868.5 of the Penal Code is amended to read:

868.5. (a) Notwithstanding any other provision of law, a prosecuting witness 16 years of age or under in a case involving a violation of Section 243.4, 261, 273a, 273d, 285, 286, 288, 288a, 289, or 647a, or a violation of subdivision (1) of Section 314, shall be entitled for support to the attendance of a parent, guardian, or sibling of his or her own choosing, whether or not a witness, at the preliminary hearing and at the trial, during the testimony of the prosecuting witness. The person so chosen shall not be a person described in Section 1070 of the Evidence Code unless the person is related to the prosecuting witness as a parent, guardian, or sibling and does not make notes during the hearing.

(b) If the person so chosen is also a prosecuting witness, the prosecution shall present, on noticed motion, evidence that the person's attendance is both desired by the prosecuting witness for support and will be helpful to the prosecuting witness. Upon that showing, the court shall grant the request unless information presented by the defendant or noticed by the court establishes that the support person's attendance during the testimony of the prosecuting witness would pose a substantial risk of influencing or affecting the content of that testimony.

(c) The testimony of the person so chosen who is also a prosecuting witness shall be presented before the testimony of the prosecuting witness. The prosecuting witness shall be excluded from the courtroom during the person's testimony. Whenever the evidence given by the person would be subject to exclusion because given before the corpus delicti has been established, the evidence shall be admitted subject to the court's or the defendant's motion to strike that evidence from the record if the corpus delicti is not later

established by the testimony of the prosecuting witness.

SEC. 5. Section 868.7 of the Penal Code is amended to read:

868.7. (a) Notwithstanding any other provision of law, the magistrate may, upon motion of the prosecutor, close the examination in the manner described in Section 868 during the testimony of a witness:

(1) Who is the complaining victim of child abuse as defined in Section 11165, or a sex offense, where testimony before the general public would be likely to cause serious psychological harm to the witness and where no alternative procedures, including, but not limited to, video taped deposition or contemporaneous examination in another place communicated to the courtroom by means of closed-circuit television, are available to avoid the perceived harm.

(2) Whose life would be subject to a substantial risk in appearing before the general public, and where no alternative security measures, including, but not limited to, efforts to conceal his or her features or physical description, searches of members of the public attending the examination, or the temporary exclusion of other actual or potential witnesses, would be adequate to minimize the perceived threat.

(b) In any case where public access to the courtroom is restricted during the examination of a witness pursuant to this section, a transcript of the testimony of that witness shall be made available to the public as soon as is practicable.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered on or before January 1, 1987, deletes or extends that date.

SEC. 6. Section 1048 of the Penal Code is amended to read:

1048. (a) The issues on the calendar shall be disposed of in the following order, unless for good cause the court directs an action to be tried out of its order:

(1) Prosecutions for felony, when the defendant is in custody.

(2) Prosecutions for misdemeanor, when the defendant is in custody.

(3) Prosecutions for felony, when the defendant is on bail.

(4) Prosecutions for misdemeanor, when the defendant is on bail.

(b) Notwithstanding subdivision (a), all criminal actions in which a minor is detained as a material witness, or in which the minor is the victim of the alleged offense, or in which any person is a victim of an alleged violation of Section 261, 264.1, 273a, 273d, 285, 286, 288, 288a, or 289, committed by the use of force, violence, or the threat thereof, shall be given precedence over all other criminal actions in the order of trial. In those actions, continuations shall be granted by the court only after a hearing and determination of the necessity thereof, and in any event, the trial shall be commenced within 30 days after arraignment, unless for good cause the court shall direct the action to be continued, after a hearing and determination of the necessity of the continuance, and states the findings for a determination of good cause on the record.

(c) Nothing in this section shall be deemed to provide a statutory right to a trial within 30 days.

SEC. 7. Section 1203.066 of the Penal Code is amended to read:

1203.066. (a) Notwithstanding Section 1203, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provisions of this section be stricken pursuant to Section 1385 for, any of the following persons:

(1) A person convicted of violating Section 288 when the act is committed by the use of force, violence, duress, menace, or threat of bodily harm.

(2) A person who caused bodily injury on the child victim in committing a violation of Section 288.

(3) A person convicted of a violation of Section 288 and who was a stranger to the child victim or made friends with the child victim for the purpose of committing an act in violation of Section 288, unless the defendant honestly and reasonably believed the victim was 14 years old or older.

(4) A person who used a weapon during the commission of a violation of Section 288.

(5) A person convicted of committing a violation of Section 288 and who has had a prior conviction of Section 261, 264.1, 267, 285, 288, or 289, of committing sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace, or threat of great bodily harm, of assaulting another with intent to commit a crime specified in this paragraph in violation of Section 220, or a violation of Section 266.

(6) A person convicted of kidnapping the child victim in violation of either Section 207 or 209 and who kidnapped the victim for the purpose of committing a violation of Section 288.

(7) A person who is convicted of committing a violation of Section 288 on more than one victim at the same time or in the same course of conduct.

(8) A person who in violating Section 288 has substantial sexual conduct with a victim under the age of 11 years.

(9) A person who occupies a position of special trust and commits an act of substantial sexual conduct. "Position of special trust" means that position occupied by a person in a position of authority who by reason of that position is able to exercise undue influence over the victim. Position of authority includes, but is not limited to, the position occupied by a natural parent, adoptive parent, stepparent, foster parent, relative, household member, adult youth leader, recreational director who is an adult, adult athletic manager, adult coach, teacher, counselor, religious leader, doctor, or employer.

(b) "Substantial sexual conduct" means penetration of the vagina or rectum by the penis of the offender or by any foreign object, oral copulation, or masturbation of either the victim or the offender.

(c) Paragraphs (7), (8), and (9) of subdivision (a) shall not apply when the court makes all of the following findings:

(1) The defendant is the victim's natural parent, adoptive parent, stepparent, relative, or is a member of the victim's household who has lived in the household.

(2) Imprisonment of the defendant is not in the best interest of the child.

(3) Rehabilitation of the defendant is feasible in a recognized treatment program designed to deal with child molestation, and if the defendant is to remain in the household, a program that is specifically designed to deal with molestation within the family.

(4) There is no threat of physical harm to the child victim if there is no imprisonment. The court upon making its findings pursuant to this subdivision is not precluded from sentencing the defendant to jail or prison, but retains the discretion not to. The court shall state its reasons on the record for whatever sentence it imposes on the defendant.

The court shall order the psychiatrist or psychologist appointed pursuant to Section 288.1 to include a consideration of the factors specified in paragraphs (2), (3), and (4) in making his or her report to the court.

(d) The existence of any fact which would make a person ineligible for probation under subdivision (a) shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

SEC. 8. Section 1346 of the Penal Code is amended to read:

1346. (a) When a defendant has been charged with a violation of Section 243.4, 261, 261.5, 264.1, 273a, 273d, 285, 286, 288, 288a, or 289, where the victim is a person 15 years of age or less, the people may apply for an order that the victim's testimony at the preliminary hearing, in addition to being stenographically recorded, be recorded and preserved on videotape.

(b) The application for the order shall be in writing and made three days prior to the preliminary hearing.

(c) Upon timely receipt of the application, the magistrate shall order that the testimony of the victim given at the preliminary hearing be taken and preserved on videotape. The videotape shall be transmitted to the clerk of the court in which the action is pending.

(d) If at the time of trial the court finds that further testimony would cause the victim emotional trauma so that the victim is medically unavailable or otherwise unavailable within the meaning of Section 240 of the Evidence Code, the court may admit the videotape of the victim's testimony at the preliminary hearing as former testimony under Section 1291 of the Evidence Code.

(e) Any videotape which is taken pursuant to this section is subject to a protective order of the court for the purpose of protecting the privacy of the victim. This subdivision does not affect the provisions of subdivision (b) of Section 868.7.

(f) Any videotape made pursuant to this section shall be made available to the prosecuting attorney, the defendant, and his or her attorney for viewing during ordinary business hours.

(g) The tape shall be destroyed after five years have elapsed from the date of entry of judgment; provided, however, that if an appeal is filed, the tape shall not be destroyed until a final judgment on appeal has been rendered.

SEC. 9. Section 11166 of the Penal Code is amended to read:

11166. (a) Except as provided in subdivision (b), any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of child abuse shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident. For the purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain such a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect child abuse.

(b) Any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who has knowledge of or who reasonably suspects that mental suffering has been inflicted on a child or his or her emotional well-being is endangered in any other way, may report such known or suspected instance of child abuse to a child protective agency.

(c) Any commercial film and photographic print processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, video tape, negative or slide depicting a child under the age of 14 years engaged in an act of sexual conduct, shall report such instance of suspected child abuse to the law enforcement agency having jurisdiction over the case immediately or as soon as practically possible by telephone and shall prepare and send a written report of it with a copy of the film, photograph, video tape, negative or slide attached within 36 hours of receiving the information concerning the incident. As used in this subdivision, "sexual conduct" means any of the following:

(1) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.

(2) Penetration of the vagina or rectum by any object.

(3) Masturbation, for the purpose of sexual stimulation of the viewer.

(4) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.

(5) Exhibition of the genitals, pubic or rectal areas of any person for the purpose of sexual stimulation of the viewer.

(d) Any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse may report the known or suspected instance of child abuse to a child protective agency.

(e) When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of child abuse, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by such selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so, shall thereafter make the report.

(f) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties and no person making such a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with the provisions of this article.

(g) A county probation or welfare department shall immediately or as soon as practically possible report by telephone to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse as defined in Section 11165, except acts or omissions coming within the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be reported to the county welfare department. A county probation or welfare department shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

A law enforcement agency shall immediately or as soon as practically possible report by telephone to the county welfare department, the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse reported to it, except acts or omissions coming within the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be reported to the county welfare department. A law enforcement agency shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

SEC. 10. Section 827 of the Welfare and Institutions Code is amended to read:

827. (a) Except as provided in Section 828, a petition filed in any

juvenile court proceeding, reports of the probation officer, and all other documents filed in any such case or made available to the probation officer in making his or her report, or to the judge, referee, or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer, may be inspected only by court personnel; child protective agencies as defined in subdivision (k) of Section 11165 of the Penal Code; the district attorney; the minor who is the subject of the proceeding the minor's parents or guardian; the attorneys for those parties; and such other persons as may be designated by court order of the judge of the juvenile court upon filing a petition therefor. The district attorney and child protective agencies, as defined in subdivision (k) of Section 11165 of the Penal Code, also shall be entitled to inspect these documents upon the filing of a declaration under penalty of perjury stating that access to these documents is necessary and relevant in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

Any records or reports relating to a matter within the jurisdiction of the juvenile court prepared by or released by the court, a probation department, or the county department of social services, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be disseminated by the receiving agencies to any persons or agencies, other than those persons or agencies authorized to receive documents pursuant to this section. Further, any such records or reports, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be made attachments to any other documents without the prior approval of the presiding judge of the juvenile court, unless they are used in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

(b) Notwithstanding subdivision (a), written notice of the filing of a petition in juvenile court, alleging that a minor of compulsory school age is a person using, selling, or possessing narcotics or a controlled substance, may be provided by the district attorney, within 48 hours, to the superintendent of the school district of attendance, pursuant to Section 48922 of the Education Code. The district attorney need not obtain a court order prior to providing this notice to the superintendent.

SEC. 11. Section 827 of the Welfare and Institutions Code is amended to read:

827. (a) Except as provided in Section 828, a petition filed in any juvenile court proceeding, reports of the probation officer, and all other documents filed in any such case or made available to the probation officer in making his or her report, or to the judge, referee or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer, may be inspected only by court personnel, the minor who is the subject of the

proceeding, his or her parents or guardian, the attorneys for those parties, and such other persons as may be designated by court order of the judge of the juvenile court upon filing a petition therefor. The district attorney and child protective agencies, as defined in subdivision (k) of Section 11165 of the Penal Code, also shall be entitled to inspect these documents upon the filing of a declaration under penalty of perjury stating that access to these documents is necessary and relevant in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

Any records or reports relating to a matter within the jurisdiction of the juvenile court prepared by or released by the court, a probation department, or the county department of social services, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be disseminated by the receiving agencies to any persons or agencies, other than those persons or agencies authorized to receive documents pursuant to this section. Further, any such records or reports, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be made attachments to any other documents without the prior approval of the presiding judge of the juvenile court, unless they are used in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

(b) (1) While the Legislature reaffirms its belief that juvenile court records, in general, should be confidential, it is the intent of the Legislature in enacting this subdivision to provide for a limited exception to juvenile court record confidentiality in cases involving serious acts of violence. Further, it is the intent of the Legislature that even in these selected cases dissemination of juvenile court records be as limited as possible consistent with the need to work with a student in an appropriate fashion, and the need to protect potentially vulnerable school staff and other students over whom school staff exercise direct supervision and responsibility.

(2) Notwithstanding subdivision (a), written notice that a minor enrolled in a public school in kindergarten or grades 1 through 12 has been found by a court of competent jurisdiction to have used, sold, or possessed narcotics or a controlled substance or to have committed any crime listed in paragraphs (1) to (15), inclusive, or (17) to (19), inclusive, of subdivision (b) of Section 707 shall be provided by the court, within seven days, to the superintendent of the school district of attendance, which information shall be expeditiously transmitted to any teacher, counselor, or administrator with direct supervisorial or disciplinary responsibility over the minor who the superintendent or his or her designee, after consultation with the principal at the school of attendance, believes needs this information to work with the student in an appropriate fashion, to avoid being needlessly vulnerable or to protect other persons from needless vulnerability. Any information received by a teacher,

counselor, or administrator under this subdivision shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher, counselor, or administrator. An intentional violation of the confidentiality provisions of this section is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500).

(3) If a minor is removed from public school as a result of the court's finding described in subdivision (b) the superintendent shall maintain the information in a confidential file and shall defer transmittal of the information received from the court until the minor is returned to public school. If the minor is returned to a school district other than the one from which the minor came, the parole or probation officer having jurisdiction over the minor shall so notify the superintendent of the last district of attendance who shall transmit the notice received from the court to the superintendent of the new district of attendance.

(c) Each probation report filed with the court concerning a minor whose record is subject to dissemination pursuant to subdivision (b) shall include on the face sheet the school at which the minor is currently enrolled. The county superintendent shall provide the court with a listing of all of the schools within each school district, within the county, along with the name and mailing address of each district superintendent.

(d) Each notice sent by the court pursuant to subdivision (b) shall be stamped with the instruction: "Destroy This Record 12 Months After The Minor Returns To Public School. Unlawful Dissemination of This Information Is A Misdemeanor." No information transmitted by the superintendent pursuant to subdivision (b) shall be transmitted by the superintendent or by any teacher, counselor, or administrator to any other person more than 12 months after receipt of the original notice from the court or more than 12 months after the minor returns to public school, whichever occurs last. Any information received from the court shall be destroyed by school authorities 12 months after its receipt from the court or 12 months after the minor returns to public school, whichever occurs last. At any time after the date by which a record required to be destroyed by this section should have been destroyed, the minor or his or her parent or guardian shall have the right to make a written request to the principal of the school that the minor's school records be reviewed to insure that the record has been destroyed. Upon completion of any requested review and no later than 30 days after the request for the review was received, the principal or his or her designee shall respond in writing to the written request and either shall confirm that the record has been destroyed or, if the record has not been destroyed, shall explain why destruction has not yet occurred and shall specify the date by which the record will be destroyed.

(e) Except as provided in paragraph (2) of subdivision (b), no liability shall attach to any person who transmits or fails to transmit

any notice or information required under subdivision (b).

(f) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before that date deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, pursuant to Section 9611 of the Government Code, Section 827 of the Welfare and Institutions Code, as amended by Section 4 of Chapter 1103 of the Statutes of 1982, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 12. Section 11 of this bill incorporates amendments to Section 827 of the Welfare and Institutions Code proposed by both this bill and AB 2481. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 827 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 2481, in which case Section 10 of this bill shall not become operative.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the criminal justice system to more effectively address the serious problems raised by the recent increase in prosecutions of crimes related to child abuse, it is necessary that this act take effect immediately.

SEC. 14. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 15. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 16. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1424

An act to add Chapter 9 (commencing with Section 13880) to Title 6 of Part 4 of the Penal Code, relating to prosecutions, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Chapter 9 (commencing with Section 13880) is added to Title 6 of Part 4 of the Penal Code, to read:

CHAPTER 9. CALIFORNIA MAJOR NARCOTIC VENDORS PROSECUTION LAW

13880. The Legislature finds and declares that the production and sale of narcotics is an ever increasing problem because of the substantial illicit profits derived therefrom. The Legislature further finds and declares that a substantial and disproportionate amount of serious crime is associated with the cultivation, processing, manufacturing, and sale of narcotics.

The Legislature intends to support intensified efforts by district attorneys' offices to prosecute drug producers and sellers through organizational and operational techniques that have been proven effective in selected jurisdictions in this and other states.

13881. (a) There is hereby established in the Office of Criminal Justice Planning a program of financial and technical assistance for district attorneys' offices, designated the California Major Narcotic Vendors Prosecution Law. All funds appropriated to the Office of Criminal Justice Planning for the purposes of this chapter shall be administered and disbursed by the executive director of the office in consultation with the California Council on Criminal Justice, and shall to the greatest extent feasible be coordinated or consolidated with federal funds that may be made available for these purposes.

(b) The executive director is authorized to allocate and award funds to counties in which the California Major Narcotic Vendors Prosecution Law is implemented in substantial compliance with the policies and criteria set forth in this chapter.

(c) The allocation and award of funds shall be made upon application executed by the county's district attorney and approved by its board of supervisors. Funds disbursed under this chapter shall not supplant local funds that would, in the absence of the California Major Narcotic Vendors Prosecution Law, be made available to support the prosecution of felony drug cases. Funds available under this program shall not be subject to review, as specified in Section 14780 of the Government Code.

(d) On or before January 1, 1985, the executive director shall prepare and issue written program and administrative guidelines and procedures for the California Major Narcotic Vendors Prosecution Program consistent with this chapter, which shall be submitted to the chairpersons of the Criminal Law and Public Safety Committee of the Assembly and the Judiciary Committee of the Senate. These guidelines shall permit the selection of a county for the allocation and award of funds only on a finding by the Office of Criminal Justice Planning that the county is experiencing a proportionately significant increase in major narcotic cases. Further, the guidelines shall provide that any funds received by a county under this chapter shall be used only for the prosecution of cases involving major narcotic dealers.

(e) Annually, commencing January 1, 1986, the executive director shall, in cooperation with public defender representatives, prepare a report to the Legislature describing the operation and results of the statewide program and assessing any and all fiscal and workload burdens imposed by the statewide program upon local public defender offices and assigned counsel, with recommendations where appropriate.

13882. California major narcotic vendors prosecution units receiving funds under this chapter shall concentrate enhanced prosecution efforts and resources upon individuals identified under selection criteria set forth in Section 13883. Enhanced prosecution efforts and resources shall include, but not be limited to, all of the following:

(a) "Vertical" prosecutorial representation, whereby the prosecutor who makes the initial filing or appearance in a drug case will perform all subsequent court appearances on that particular case through its conclusion, including the sentencing phase.

(b) Assignment of highly qualified investigators and prosecutors to drug cases.

(c) Significant reduction of caseloads for investigators and prosecutors assigned to drug cases.

13883. (a) An individual may be the subject of the California Major Narcotic Vendors Prosecution Law prosecution efforts who is under arrest for the commission or attempted commission of one or more felonies relating to controlled substances in violation of Section 11351, 11352, 11358, 11378, 11378.5, 11379, 11379.5, or 11383 of the Health and Safety Code.

(b) In applying the criteria set forth in subdivision (a), a district attorney may, consistent with the provisions of subdivision (d) of Section 13881, elect to limit drug prosecution efforts to persons arrested for any one or more of the felonies listed in subdivision (a) if crime statistics demonstrate that the incidence of that felony or felonies presents a particularly serious problem in the county.

(c) In exercising the prosecutorial discretion granted by this section, the district attorney shall consider (1) the character, background, and prior criminal background of the defendant, and

(2) the number and the seriousness of the offenses currently charged against the defendant.

13884. (a) Each district attorney's office establishing a California major narcotic vendors prosecution unit and receiving state support under this chapter shall adopt and pursue the following policies for the California Major Narcotic Vendors Prosecution Law cases:

(1) All reasonable prosecutorial efforts shall be made to resist the pretrial release of a charged defendant selected for prosecution under the California Major Narcotic Vendors Prosecution Law.

(2) All reasonable prosecutorial efforts shall be made to persuade the court to impose the most severe authorized sentence upon a person convicted after prosecution under the California Major Narcotic Vendors Prosecution Law.

(3) All reasonable prosecutorial efforts shall be made to reduce the time between arrest and disposition of charge against an individual selected for prosecution under the California Major Narcotic Vendors Prosecution Law.

(b) The selection criteria set forth in Section 13883 shall be adhered to for each California Major Narcotic Vendors Prosecution Law case unless, in the reasonable exercise of prosecutor's discretion, extraordinary circumstances require the departure from those policies in order to promote the general purposes and intent of this chapter.

SEC. 2. The sum of one million five hundred thousand dollars ($1,500,000) is hereby appropriated from the General Fund to the Office of Criminal Justice Planning, without regard to fiscal years, for the purpose of this act. An amount not to exceed 5 percent of the total appropriation may be used by the Office of Criminal Justice Planning to administer the program.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to commence this important criminal justice program at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1425

An act to amend Section 1191.1 of the Penal Code, and to amend Section 656.2 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 1191.1 of the Penal Code is amended to read:

1191.1. The victim of any crime, or his or her parent or guardian if the victim is a minor, or the next of kin of the victim if the victim has died, has the right to attend all sentencing proceedings under this chapter and shall be given adequate notice by the probation officer of all sentencing proceedings concerning the person who committed the crime.

The victim, or his or her parent or guardian if the victim is a minor, or next of kin has the right to appear, personally or by counsel, at the sentencing proceeding and to reasonably express his or her views concerning the crime, the person responsible, and the need for restitution. The court in imposing sentence shall consider the statements of victims, parents, or guardians, and next of kin made pursuant to this section and shall state on the record its conclusion concerning whether the person would pose a threat to public safety if granted probation.

The provisions of this section shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

SEC. 2. Section 656.2 of the Welfare and Institutions Code is amended to read:

656.2. (a) In any case in which a minor is alleged to have committed an act which would have been a felony if committed by an adult, the probation officer shall obtain a statement from the victim, the parent or guardian of the victim if the victim is a minor, or if the victim has died, the victim's next of kin, concerning the offense which shall be included in the social study made by the probation officer and submitted to the court pursuant to Section 706 and shall advise those persons as to the time and place of the disposition hearing.

The probation officer shall also provide the victim with information concerning the victim's right to an action for civil damages against the minor and his or her parents and the victim's opportunity to be compensated from the restitution fund. The information shall be in the form of written material prepared by the Judicial Council and shall be provided to each victim for whom the probation officer has a current mailing address.

(b) Notwithstanding any other provision of law, the persons from whom the probation officer is required to obtain a statement pursuant to subdivision (a) shall have the right to attend the disposition hearing conducted pursuant to Section 702 and, subject to the court's discretion, to express their views concerning the offense and disposition of the case.

SEC. 2. Notwithstanding Section 2231.5 of the Revenue and

Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

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

CHAPTER 1426

An act to amend Section 21100 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 21100 of the Vehicle Code is amended to read:

21100. Local authorities may adopt rules and regulations by ordinance or resolution regarding the following matters:

(a) Regulating or prohibiting processions or assemblages on the highways.

(b) Licensing and regulating the operation of vehicles for hire and drivers of passenger vehicles for hire.

(c) Regulating traffic by means of traffic officers.

(d) Regulating traffic by means of official traffic control devices meeting the requirements of Section 21400.

(e) Regulating traffic by means of any person given temporary or permanent appointment for such duty by the local authority whenever official traffic control devices are disabled or otherwise inoperable, at the scenes of accidents or disasters, or at such locations as may require traffic direction for orderly traffic flow.

No person shall, however, be appointed pursuant to this subdivision unless and until the local authority has submitted to the commissioner or to the chief law enforcement officer exercising jurisdiction in the enforcement of traffic laws within the area in which such person is to perform such duty, for review, a proposed program of instruction for the training of a person for such duty, and unless and until the commissioner or such other chief law enforcement officer approves the proposed program. The commissioner or such other chief law enforcement officer shall approve such a proposed program if he reasonably determines that

the program will provide sufficient training for persons assigned to perform the duty described in this subdivision.

(f) Regulating traffic at the site of road or street construction or maintenance by persons authorized for such duty by the local authority.

(g) Licensing and regulating the operation of tow car service.

(h) Operation of bicycles, and, as specified in Section 21114.5, electric carts by physically disabled persons, or persons 50 years of age or older, on the public sidewalks.

(i) Providing for the appointment of nonstudent school crossing guards for the protection of persons who are crossing a street or highway in the vicinity of a school or while returning thereafter to a place of safety.

(j) Regulating the methods of deposit of garbage and refuse in streets and highways for collection by the local authority or by any person authorized by the local authority.

(k) Regulating cruising. The ordinance or resolution adopted pursuant to this subdivision shall regulate cruising, which shall be defined as the repetitive driving of a motor vehicle past a traffic control point in traffic which is congested at or near the traffic control point, as determined by the ranking peace officer on duty within the affected area, within a specified time period and after the vehicle operator has been given an adequate written notice that further driving past the control point will be a violation of the ordinance or resolution. No person is in violation of an ordinance or resolution adopted pursuant to this subdivision unless (1) that person has been given the written notice on a previous driving trip past the control point and then again passes the control point in that same time interval and (2) the beginning and end of the portion of the street subject to cruising controls are clearly identified by signs that briefly and clearly state the appropriate provisions of this subdivision and the local ordinance or resolution on cruising.

CHAPTER 1427

An act to amend Section 462 of, and to repeal Section 463 of, the Penal Code, and to amend and repeal Section 4 of Chapter 42 of the Statutes of 1980, relating to burglary.

[Approved by Governor September 25, 1984 Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 462 of the Penal Code is amended to read:

462. (a) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any person who is convicted of a burglary of

an inhabited dwelling house or trailer coach, as defined in Section 635 of the Vehicle Code, or the inhabited portion of any other building.

(b) If the court grants probation under subdivision (a), it shall specify the reason or reasons for such order on the court record.

SEC. 2. Section 463 of the Penal Code is repealed.

SEC. 3. Section 4 of Chapter 42 of the Statutes of 1980 is amended to read:

Sec. 4. This act shall remain in effect only until January 1, 1986, and as of that date is repealed, unless before that date sites for proposed prison facilities in Los Angeles and Riverside Counties are approved pursuant to Section 1 of Chapter 1549 of the Statutes of 1982, in which case this section is repealed as of the date those facilities are approved.

CHAPTER 1428

An act to amend Section 1203.1c of the Penal Code, relating to incarceration costs.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 1203.1c of the Penal Code is amended to read:

1203.1c. (a) In any case in which a defendant is convicted of an offense and is ordered to serve a period of confinement in a county jail or other local detention facility as a term of probation, the court may, after a hearing, make a determination of the ability of the defendant to pay all or a portion of the reasonable costs of such incarceration, including incarceration pending disposition of the case. The reasonable cost of such incarceration shall not exceed the amount determined by the board of supervisors of the county to be the actual average cost thereof on a per-day basis. The court may, in its discretion, hold additional hearings during the probationary period. The court may, in its discretion before such hearing, order the defendant to file a statement setting forth his or her assets, liability and income, under penalty of perjury, and may order the defendant to appear before a county officer designated by the board of supervisors to make an inquiry into the ability of the defendant to pay all or a portion of such costs. At the hearing, the defendant shall be entitled to have the opportunity to be heard in person or to be represented by counsel, to present witnesses and other evidence, and to confront and cross-examine adverse witnesses. A defendant represented by counsel appointed by the court in the criminal proceedings shall be entitled to such representation at any hearing

held pursuant to this section. If the court determines that the defendant has the ability to pay all or a part of the costs, the court may set the amount to be reimbursed and order the defendant to pay that sum to the county in the manner in which the court believes reasonable and compatible with the defendant's financial ability. The court shall order that such payments be made in the same manner as on a judgment in a civil action. The order to pay all or part of the costs shall not be enforced by contempt.

If practicable, the court shall order payments to be made on a monthly basis and the payments shall be made payable to the county officer designated by the board of supervisors.

A payment schedule for reimbursement of the costs of incarceration pursuant to this section based upon income shall be developed by the county officer designated by the board of supervisors and approved by the presiding judges of the municipal and superior courts.

(b) "Ability to pay" means the overall capability of the defendant to reimburse the costs, or a portion of the costs, of incarceration and includes, but is not limited to, the defendant's:

(1) Present financial obligations, including family support obligations, and fines, penalties and other obligations to the court.

(2) Reasonably discernible future financial position. In no event shall the court consider a period of more than one year from the date of the hearing for purposes of determining reasonable discernible future position.

(3) Likelihood that the defendant shall be able to obtain employment within the one year period from the date of the hearing.

(4) Any other factor or factors which may bear upon the defendant's financial ability to reimburse the county for the costs.

(c) All sums paid by a defendant pursuant to this section shall be deposited in the general fund of the county.

(d) This section shall be operative in a county upon the adoption of an ordinance to that effect by the board of supervisors. Such ordinance shall include a designation of the county officer responsible for collection of moneys ordered pursuant to this section and shall include a determination, to be reviewed annually, of the average per-day costs of incarceration in the county jail or other local detention facility.

CHAPTER 1429

An act to amend Sections 781 and 16514 of the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 781 of the Welfare and Institutions Code is amended to read:

781. (a) In any case in which a petition has been filed with a juvenile court to commence proceedings to adjudge a person a ward of the court, in any case in which a person is cited to appear before a probation officer or is taken before a probation officer pursuant to Section 626, or in any case in which a minor is taken before any officer of a law enforcement agency, the person or the county probation officer may, five years or more after the jurisdiction of the juvenile court has terminated as to the person, or, in a case in which no petition is filed, five years or more after the person was cited to appear before a probation officer or was taken before a probation officer pursuant to Section 626 or was taken before any officer of a law enforcement agency, or, in any case, at any time after the person has reached the age of 18 years, petition the court for sealing of the records, including records of arrest, relating to the person's case, in the custody of the juvenile court and probation officer and any other agencies, including law enforcement agencies, and public officials as the petitioner alleges, in his or her petition, to have custody of the records. The court shall notify the district attorney of the county and the county probation officer, if he or she is not the petitioner, and the district attorney or probation officer or any of their deputies or any other person having relevant evidence may testify at the hearing on the petition. If, after hearing, the court finds that since the termination of jurisdiction or action pursuant to Section 626, as the case may be, he or she has not been convicted of a felony or of any misdemeanor involving moral turpitude and that rehabilitation has been attained to the satisfaction of the court, it shall order all records, papers, and exhibits in the person's case in the custody of the juvenile court sealed, including the juvenile court record, minute book entries, and entries on dockets, and other records relating to the case in the custody of the other agencies and officials as are named in the order. Notwithstanding any other provision of law, the court shall not order the person's records sealed in any case in which the person has been found by the juvenile court to have committed an offense listed in subdivision (b) of Section 707 until at least three years have elapsed since commission of the offense listed in subdivision (b) of Section 707. Once the court has ordered the person's records sealed, the proceedings in the case shall be deemed never to have occurred, and the person may properly reply accordingly to any inquiry about the events, the records of which are ordered sealed. The court shall send a copy of the order to each agency and official named therein, directing the agency to seal its records and stating the date thereafter to destroy the sealed records. Each such agency and official shall seal the records in its custody as directed by the order, shall advise the court of its compliance, and thereupon shall seal the copy of the court's order for sealing of records that it, he, or she received. The

person who is the subject of records sealed pursuant to this section may petition the superior court to permit inspection of the records by persons named in the petition, and the superior court may so order. Otherwise, except as provided in subdivision (b), the records shall not be open to inspection.

(b) In any action or proceeding based upon defamation, a court, upon a showing of good cause, may order any records sealed under this section to be opened and admitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the action or proceeding becoming final, the court shall order the records sealed.

(c) (1) Subdivision (a) does not apply to Department of Motor Vehicle records of any convictions for offenses under the Vehicle Code or any local ordinance relating to the operation, stopping and standing, or parking of a vehicle where the record of any such conviction would be a public record under Section 1808 of the Vehicle Code. However, if a court orders a case record containing any such conviction to be sealed under this section, and if the Department of Motor Vehicles maintains a public record of such a conviction, the court shall notify the Department of Motor Vehicles of the sealing and the department shall advise the court of its receipt of the notice.

Notwithstanding any other provision of law, subsequent to the notification, the Department of Motor Vehicles shall allow access to its record of convictions only to the subject of the record and to insurers which have been granted requester code numbers by the department. Any insurer to which such a record of conviction is disclosed, when such a conviction record has otherwise been sealed under this section, shall be given notice of the sealing when the record is disclosed to the insurer. The insurer may use the information contained in the record for purposes of determining eligibility for insurance and insurance rates for the subject of the record, and the information shall not be used for any other purpose nor shall it be disclosed by an insurer to any person or party not having access to the record.

(2) This subdivision shall not be construed as preventing the sealing of any record which is maintained by any agency or party other than the Department of Motor Vehicles.

(3) This subdivision shall not be construed as affecting the procedures or authority of the Department of Motor Vehicles for purging department records.

(d) Unless for good cause the court determines that the juvenile court record shall be retained, the court shall order the destruction of a person's juvenile court records that were sealed pursuant to this section as follows: five years after the record was ordered sealed, if the person who is the subject of the record was alleged or adjudged to be a person described by Section 601; or when the person who is

the subject of the record reaches the age of 38 if the person was alleged or adjudged to be a person described by Section 602. Any other agency in possession of sealed records shall destroy its records in accordance with this section.

SEC. 2. Section 16514 of the Welfare and Institutions Code is amended to read:

16514. (a) A minor who has been voluntarily placed, adjudged a dependent child of the juvenile court pursuant to Section 300, or as to whom a petition has been filed under Section 325, may be housed in an emergency shelter or, pursuant to the procedures for placement set forth in this code, placed in a foster family home, with minors adjudged wards of the juvenile court pursuant to Section 601.

(b) A minor who has been voluntarily placed, adjudged a dependent child of the juvenile court pursuant to Section 300, or adjudged a ward of the juvenile court pursuant to Section 601, shall not be housed in an emergency shelter with any minor adjudged a ward of the juvenile court pursuant to Section 602.

(c) A minor who has been voluntarily placed, adjudged a dependent child of the juvenile court pursuant to Section 300, or as to whom a petition has been filed under Section 325, shall not be placed or detained in a group home or foster family home with any minor adjudged a ward of the juvenile court pursuant to Section 601 or 602, unless the social worker or probation officer has determined that the group home or foster family home has a program that meets the specific needs of the minor being placed or detained, and there is a commonality of needs with the other minors in the group home or foster home.

CHAPTER 1430

An act to amend Section 12028 of, and to add Chapter 3.2 (commencing with Section 12355) to Title 2 of Part 4 of, the Penal Code, relating to injurious devices, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 12028 of the Penal Code is amended to read:

12028. (a) The unlawful concealed carrying upon the person or within the vehicle of the carrier of any of the weapons mentioned in Section 653k, 12020, or 12025 is a nuisance.

(b) A firearm of any nature used in the commission of any misdemeanor as provided in this code or any felony, or an attempt to commit any misdemeanor as provided in this code or any felony, is, upon a conviction of the defendant, or upon a juvenile court

finding that an offense which would be a misdemeanor or felony if committed by an adult was committed or attempted by the juvenile with the use of a firearm, a nuisance. A finding that the defendant was guilty of the offense but was insane at the time the offense was committed is a conviction for the purposes of this section.

(c) Any weapon described in subdivision (a), or, upon conviction of the defendant or a juvenile court finding that an offense which would be a misdemeanor or felony if committed by an adult was committed or attempted by the juvenile with the use of a firearm, any weapon described in subdivision (b), shall be surrendered to the sheriff of a county or the chief of police or other head of a municipal police department of any city or city and county. The officers to whom the weapons are surrendered, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention thereof is necessary or proper to the ends of justice, may annually, between the 1st and 10th days of July, in each year, offer the weapons, which the officers in charge of them consider to have value with respect to sporting, recreational, or collection purposes, for sale at public auction to persons licensed under federal law to engage in businesses involving any weapon purchased. If any weapon has been stolen and is thereafter recovered from the thief or his or her transferee, or is used in such a manner as to constitute a nuisance pursuant to subdivision (a) or (b) without the prior knowledge of its lawful owner that it would be so used, it shall not be so offered for sale but shall be restored to the lawful owner, as soon as its use as evidence has been served, upon his or her identification of the weapon and proof of ownership.

(d) If, under this section, a weapon is not of the type that can be sold to the public, generally, or is not sold pursuant to subdivision (c) the weapon shall in the month of July, next succeeding, or sooner, if necessary to conserve local resources including space and utilization of personnel who maintain files and security of those weapons, be destroyed so that it can no longer be used as such weapon except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention of it is necessary or proper to the ends of justice.

(e) This section shall not apply to any firearm in the possession of the Department of Fish and Game or which was used in the violation of any provision of law, or regulation thereunder, in the Fish and Game Code.

(f) No stolen weapon shall be sold or destroyed pursuant to subdivision (c) or (d) unless reasonable notice is given to its lawful owner, if his or her identity and address can be reasonably ascertained.

SEC. 1.5. Chapter 3.2 (commencing with Section 12355) is added to Title 2 of Part 4 of the Penal Code, to read:

CHAPTER 3.2. BOOBYTRAPS

12355. (a) Except as provided in Chapter 2.5 (commencing with Section 12301), any person who assembles, maintains, places, or causes to be placed a boobytrap device as described in subdivision (c) is guilty of a felony punishable by imprisonment in the state prison for two, three, or five years.

(b) Possession of any device with the intent to use the device as a boobytrap is punishable by imprisonment in state prison, or in a county jail not exceeding one year, or by a fine not exceeding five thousand dollars ($5,000), or by both that fine and imprisonment.

(c) For purposes of this section, "boobytrap" means any concealed or camouflaged device designed to cause great bodily injury when triggered by an action of any unsuspecting person coming across the device. Boobytraps may include, but are not limited to, guns, ammunition, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, and lines or wire with hooks attached.

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

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to prevent great bodily injury to people in the state it is necessary for this bill to take effect immediately.

CHAPTER 1431

An act to add Section 13353.1 to the Vehicle Code, relating to licenses.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 13353.1 is added to the Vehicle Code, to read:

13353.1. (a) Notwithstanding Section 13366, if (1) an abstract of conviction is received by the department for an offense which requires the department to restrict, suspend, or revoke the driving

privilege of a person after conviction or finding of a violation pursuant to Section 13352 or 13352.5, and (2) there is a suspension of that person's driving privilege already in effect for refusal to consent to, or for failure to complete, a chemical test pursuant to Section 13353, and (3) that suspension is administratively final and resulted from the same arrest, and (4) the sentencing court orders these restrictions, suspensions, revocations, or combination thereof to run consecutively, then the restriction, suspension, or revocation resulting from the conviction or finding pursuant to Section 13352 or 13352.5 shall commence after the suspension already in effect pursuant to Section 13353 has terminated.

(b) Notwithstanding Section 13366, if (1) the department is required to suspend a person's driving privilege for refusal to consent to, or for failure to complete, a chemical test pursuant to Section 13353, (2) there is a restriction, suspension, or revocation of the person's driving privilege already in effect for a conviction or finding of a violation pursuant to Section 13352 or 13352.5 which resulted from the same arrest, and (3) the sentencing court orders these restrictions, suspensions, revocations, or combination thereof to run consecutively, then the suspension for refusal to consent to, or for failure to complete, the chemical test pursuant to Section 13353 shall commence after the restriction, suspension, or revocation already in effect pursuant to Section 13352 or 13352.5 has terminated.

(c) The purpose of this section is to require that any suspension under Section 13353 and any restriction, suspension, or revocation under Section 13352 or 13352.5 resulting from the same arrest are cumulative and shall be imposed consecutively, if so ordered by the court.

SEC. 2. Section 13353.1 is added to the Vehicle Code, to read:

13353.1. (a) Notwithstanding Section 13366, if (1) an abstract of conviction is received by the department for an offense which requires the department to restrict, suspend, or revoke the driving privilege of a person after conviction or finding of a violation pursuant to Section 13352 or 13352.5, and (2) there is a suspension of that person's driving privilege already in effect for refusal to consent to, or for failure to complete, a chemical test pursuant to Section 13353, and (3) that suspension is administratively final and resulted from the same arrest, and (4) the sentencing court orders these restrictions, suspensions, revocations, or combination thereof to run consecutively, then the restriction, suspension, or revocation resulting from the conviction or finding pursuant to Section 13352 or 13352.5 shall commence after the suspension already in effect pursuant to Section 13353 has terminated.

(b) Notwithstanding Section 13366, if (1) the department is required to suspend or revoke a person's driving privilege for refusal to consent to, or for failure to complete, a chemical test pursuant to Section 13353, (2) there is a restriction, suspension, or revocation of the person's driving privilege already in effect for a conviction or finding of a violation pursuant to Section 13352 or 13352.5 which

resulted from the same arrest, and (3) the sentencing court orders these restrictions, suspensions, revocations, or combination thereof to run consecutively, then the suspension or revocation for refusal to consent to, or for failure to complete, the chemical test pursuant to Section 13353 shall commence after the restriction, suspension, or revocation already in effect pursuant to Section 13352 or 13352.5 has terminated.

(c) The purpose of this section is to require that any suspension or revocation under Section 13353 and any restriction, suspension or revocation under Section 13352 or 13352.5 resulting from the same arrest are cumulative and shall be imposed consecutively, if so ordered by the court.

SEC. 3. Section 2 of this act shall only be operative if Senate Bill No. 1441 of the 1983–84 Regular Session is enacted, in which case Section 1 of this act shall not be operative.

CHAPTER 1432

An act to amend Sections 270, 502.7, 594, 597.5, 653h, 1168, 1170, 3041, and 4532 of the Penal Code, relating to sentencing.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 270 of the Penal Code is amended to read:

270. If a parent of a minor child willfully omits, without lawful excuse, to furnish necessary clothing, food, shelter or medical attendance, or other remedial care for his or her child, he or she is guilty of a misdemeanor punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment. If a court of competent jurisdiction has made a final adjudication in either a civil or a criminal action that a person is the parent of a minor child and the person has notice of such adjudication and he or she then willfully omits, without lawful excuse, to furnish necessary clothing, food, shelter, medical attendance or other remedial care for his or her child, this conduct is punishable by imprisonment in the county jail not exceeding one year or in a state prison for a determinate term of one year and one day, or by a fine not exceeding two thousand dollars ($2,000), or by both such fine and imprisonment. This statute shall not be construed so as to relieve such parent from the criminal liability defined herein for such omission merely because the other parent of such child is legally entitled to the custody of such child nor because the other parent of such child or any other person or organization voluntarily or involuntarily furnishes such necessary food, clothing, shelter or medical attendance or other remedial care

for such child or undertakes to do so.

Proof of abandonment or desertion of a child by such parent, or the omission by such parent to furnish necessary food, clothing, shelter or medical attendance or other remedial care for his or her child is prima facie evidence that such abandonment or desertion or omission to furnish necessary food, clothing, shelter or medical attendance or other remedial care is willful and without lawful excuse.

The court, in determining the ability of the parent to support his or her child, shall consider all income, including social insurance benefits and gifts.

The provisions of this section are applicable whether the parents of such child are or were ever married or divorced, and regardless of any decree made in any divorce action relative to alimony or to the support of the child. A child conceived but not yet born is to be deemed an existing person insofar as this section is concerned.

The husband of a woman who bears a child as a result of artificial insemination shall be considered the father of that child for the purpose of this section, if he consented in writing to the artificial insemination.

If a parent provides a minor with treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination, by a duly accredited practitioner thereof, such treatment shall constitute "other remedial care", as used in this section.

SEC. 2. Section 502.7 of the Penal Code is amended to read:

502.7. (a) A person who, knowingly, willfully and with intent to defraud a person providing telephone or telegraph service, avoids or attempts to avoid, or aids, abets or causes another to avoid the lawful charge, in whole or in part, for telephone or telegraph service by any of the following means is guilty of a misdemeanor:

(1) By charging such service to an existing telephone number or credit card number without the authority of the subscriber thereto or the lawful holder thereof; or

(2) By charging such service to a nonexistent telephone number or credit card number, or to a number associated with telephone service which is suspended or terminated, or to a revoked or canceled (as distinguished from expired) credit card number, notice of such suspension, termination, revocation or cancellation of such telephone service or credit card having been given to the subscriber thereto or the holder thereof; or

(3) By use of a code, prearranged scheme, or other similar stratagem or device whereby said person, in effect, sends or receives information; or

(4) By rearranging, tampering with, or making connection with telephone or telegraph facilities or equipment, whether physically, electrically, acoustically, inductively or otherwise, or by using telephone or telegraph service with knowledge or reason to believe that such rearrangement, tampering or connection existed at the

time of such use; or

(5) By using any other deception, false pretense, trick, scheme, device or means.

(b) A person who (1) makes, possesses, sells, gives or otherwise transfers to another, or offers or advertises an instrument, apparatus, or device with intent to use it or with knowledge or reason to believe it is intended to be used to avoid any lawful telephone or telegraph toll charge or to conceal the existence or place of origin or destination of any telephone or telegraph message; or (2) sells, gives or otherwise transfers to another or offers, or advertises plans or instructions for making or assemblying an instrument, apparatus or device described in paragraph (1) of this subdivision with knowledge or reason to believe that they may be used to make or assemble such instrument, apparatus or device is guilty of a misdemeanor.

(c) Any person who publishes the number or code of an existing, canceled, revoked, expired or nonexistent credit card, or the numbering or coding which is employed in the issuance of credit cards, with the intent that it be used or with knowledge or reason to believe that it will be used to avoid the payment of any lawful telephone or telegraph toll charge is guilty of a misdemeanor. The provisions of subdivision (f) shall not apply to this subdivision. As used in this section, "publishes" means the communication of information to any one or more persons, either orally, in person or by telephone, radio or television, or in a writing of any kind, including without limitation a letter or memorandum, circular or handbill, newspaper or magazine article, or book.

(d) Subdivision (a) of this section shall apply when the telephone or telegraph communication involved either originates or terminates, or both originates and terminates, in this state, or when the charges for service would have been billable, in normal course, by a person providing telephone or telegraph service in this state, but for the fact that the charge for service was avoided, or attempted to be avoided by one or more of the means set forth in subdivision (a) of this section.

(e) Jurisdiction of an offense under this section is in the jurisdictional territory where the telephone call or telegram involved in the offense originates or where it terminates, or the jurisdictional territory to which the bill for the service is sent or would have been sent but for the fact that the service was obtained or attempted to be obtained by one or more of the means set forth in subdivision (a) of this section.

(f) If the total value of all telephone or telegraph services obtained in violation of this section aggregates over four hundred dollars ($400) within any period of twelve (12) consecutive months during the three years immediately prior to the time the indictment is found or the case is certified to the superior court, or if the defendant has previously been convicted of an offense under this section or of an offense under the laws of another state or of the United States which would have been an offense under this section

if committed in this state, a person guilty of such offense is punishable by imprisonment in the county jail not exceeding one year, or by fine not exceeding ten thousand dollars ($10,000), or by both such fine and imprisonment.

(g) An instrument, apparatus, device, plans, instructions or written publication described in subdivision (b) or (c) of this section may be seized under warrant or incident to a lawful arrest, and, upon the conviction of a person for a violation of subdivision (a), (b), or (c) of this section, such instrument, apparatus, device, plans, instructions or written publication may be destroyed as contraband by the sheriff of the county in which such person was convicted or turned over to the person providing telephone or telegraph service in the territory in which the same was seized.

SEC. 3. Section 594 of the Penal Code is amended to read:

594. (a) Every person who maliciously (1) defaces with paint or any other liquid, (2) damages or (3) destroys any real or personal property not his own, in cases otherwise than those specified by state law, is guilty of vandalism.

(b) (1) If the amount of defacement, damage or destruction is one thousand dollars ($1,000) or more, vandalism is punishable by imprisonment in the county jail not exceeding one year, or by a fine of five thousand dollars ($5,000), or both such fine and imprisonment.

(2) If the amount of defacement, damage or destruction is less than one thousand dollars ($1,000), vandalism is punishable by imprisonment in the county jail for not more than six months, or by a fine of not more than one thousand dollars ($1,000), or by both such fine and imprisonment.

SEC. 4. Section 597.5 of the Penal Code is amended to read:

597.5. (a) Any person who does any of the following is guilty of a crime and is punishable by imprisonment in a county jail not to exceed one year, or by a fine not to exceed fifty thousand dollars ($50,000), or by both such fine and imprisonment:

(1) Owns, possesses, keeps, or trains any dog, with the intent that such dog shall be engaged in an exhibition of fighting with another dog.

(2) For amusement or gain, causes any dog to fight with another dog, or causes any dogs to injure each other.

(3) Permits any act in violation of paragraph (1) or (2) to be done on any premises under his charge or control, or aids or abets any such act.

(b) Any person who is knowingly present, as a spectator, at any place, building, or tenement where preparations are being made for an exhibition of the fighting of dogs, with the intent to be present at such preparations, or is knowingly present at such exhibition or at any other fighting or injuring as described in paragraph (2) of subdivision (a), with the intent to be present at such exhibition, fighting, or injuring, is guilty of a misdemeanor.

(c) Nothing in this section shall prohibit any of the following:

(1) The use of dogs in the management of livestock, as defined by Section 14205 of the Food and Agricultural Code, by the owner of such livestock or his employees or agents or other persons in lawful custody thereof.

(2) The use of dogs in hunting as permitted by the Fish and Game Code including, but not limited to, Sections 3286, 3509, 3510, 4002, and 4756, and by the rules and regulations of the Fish and Game Commission.

(3) The training of dogs or the use of equipment in the training of dogs for any purpose not prohibited by law.

SEC. 5. Section 653h of the Penal Code is amended to read:

653h. (a) Every person is guilty of a public offense punishable by imprisonment in the county jail not to exceed one year, or by a fine not to exceed twenty-five thousand dollars ($25,000), or by both such imprisonment and fine, who:

(1) Knowingly and willfully transfers or causes to be transferred any sounds that have been recorded on a phonograph record, disc, wire, tape, film or other article on which sounds are recorded, with intent to sell or cause to be sold, or to use or cause to be used for profit through public performance, such article on which such sounds are so transferred, without the consent of the owner.

(2) Transports for monetary or like consideration within this state or causes to be transported within this state any such article with the knowledge that the sounds thereon have been so transferred without the consent of the owner.

(b) Any person who has been convicted of a violation of subdivision (a) shall, upon a subsequent conviction, be imprisoned in state prison, or by a fine not exceeding fifty thousand dollars ($50,000), or by both such fine and imprisonment.

(c) Every person who sells or causes to be sold any such article with knowledge that the sounds thereon have been so transferred without the consent of the owner is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not to exceed five thousand dollars ($5,000), or by both such fine and imprisonment.

(d) As used in this section, "person" means any individual, partnership, partnership's member or employee, corporation, association or corporation or association employee, officer or director; "owner" means the person who owns the original fixation of sounds embodied in the master phonograph record, master disc, master tape, master film or other article used for reproducing recorded sounds on phonograph records, discs, tapes, films or other articles on which sound is or can be recorded, and from which the transferred recorded sounds are directly or indirectly derived; and "fixation of sounds" means the master recording from which copies can be made of the series of sounds constituting the sound recording.

(e) This section shall neither enlarge nor diminish the right of parties in private litigation.

(f) This section does not apply to any person engaged in radio or

television broadcasting who transfers, or causes to be transferred, any such sounds (other than from the sound track of a motion picture) intended for, or in connection with broadcast transmission or related uses, or for archival purposes.

(g) This section does not apply to any not-for-profit educational institution or any federal or state governmental entity, if the institution or entity has as a primary purpose the advancement of the public's knowledge and the dissemination of information regarding America's musical cultural heritage, provided that this purpose is clearly set forth in the institution's or entity's charter, bylaws, certificate of incorporation, or similar document, and the institution or entity has, prior to the transfer, made a good faith effort to identify and locate the owner or owners of the sound recordings to be transferred and, provided that the owner or owners could not be and have not been located. Nothing in this section shall be construed to relieve an institution or entity of its contractual or other obiligation to compensate the owners of sound recordings to be transferred. In order to continue the exemption permitted by this subdivision, the institution or entity shall make continuing efforts to locate such owners and shall make an annual public notice of the fact of the transfers in newspapers of general circulation serving the jurisdictions where the owners were incorporated or doing business at the time of initial affixations. The institution or entity shall keep on file a record of the efforts made to locate such owners for inspection by appropriate governmental agencies.

(h) This section applies only to such articles that were initially fixed prior to February 15, 1972.

SEC. 6. Section 3041 of the Penal Code is amended to read:

3041. (a) In the case of any prisoner sentenced pursuant to any provision of law, other than Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, the Board of Prison Terms shall meet with each such inmate during the third year of incarceration for the purposes of reviewing the inmate's file, making recommendations, and documenting activities and conduct pertinent to granting or withholding post-conviction credit. One year prior to the inmate's minimum eligible parole release date a panel consisting of at least two members of the Board of Prison Terms shall again meet with the inmate and shall normally set a parole release date as provided in Section 3041.5. The release date shall be set in a manner that will provide uniform terms for offenses of similar gravity and magnitude in respect to their threat to the public, and that will comply with the sentencing rules that the Judicial Council may issue and any sentencing information relevant to the setting of parole release dates. The board shall establish criteria for the setting of parole release dates and in doing so shall consider the number of victims of the crime for which the prisoner was sentenced and other factors in mitigation or aggravation of the crime. At least one member of the panel shall have been present at the last preceding meeting, unless it is not feasible to do so or where the last preceding meeting was the

initial meeting. Any person on the hearing panel may request review of any decision regarding parole to the full board for an en banc hearing. In case of such a review, a majority vote of the full Board of Prison Terms in favor of parole is required to grant parole to any prisoner.

(b) The panel or board shall set a release date unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual, and that a parole date, therefore, cannot be fixed at this meeting.

(c) For the purpose of reviewing the suitability for parole of those prisoners eligible for parole under prior law at a date earlier than that calculated under Section 1170.2, the board shall appoint panels of at least two persons to meet annually with each such prisoner until such time as the person is released pursuant to such proceedings or reaches the expiration of his term as calculated under Section 1170.2.

SEC. 7. Section 4532 of the Penal Code is amended to read:

4532. (a) Every prisoner arrested and booked for, charged with, or convicted of a misdemeanor, and every person committed under the terms of Section 5654, 5656, or 5677 of the Welfare and Institutions Code as an inebriate, who is confined in any county or city jail or prison or industrial farm or industrial road camp or who is engaged on any county road or other county work or who is in the lawful custody of any officer or person, or who is employed or continuing in his regular educational program or authorized to secure employment or education away from the place of confinement, pursuant to the Work Furlough Rehabilitation Law (Section 1208), or who is authorized for temporary release for family emergencies or for purposes preparatory to his return to the community pursuant to Section 4018.6, and who thereafter escapes or attempts to escape from such county or city jail, prison, industrial farm or industrial road camp or from the custody of the officer or person in charge of him while engaged in or going to or returning from such county work or from the custody of any officer or person in whose lawful custody he is, is guilty of a felony and, if such escape or attempt to escape was not by force or violence, is punishable by imprisonment in the state prison for a determinate term of one year and one day, or in the county jail not exceeding one year; provided, however, that if such escape or attempt to escape is by force or violence, such person is guilty of a felony and is punishable by imprisonment in the state prison for two, four, or six years to be served consecutively, or in the county jail not exceeding one year; provided, that when said second term of imprisonment is to be served in the county jail it shall commence from the time such prisoner would otherwise have been discharged from said jail.

The willful failure of a prisoner, whether convicted of a felony or a misdemeanor, employed or continuing in his regular educational program or authorized to secure employment or education pursuant

to the Work Furlough Rehabilitation Law (Section 1208) or authorized for temporary release for family emergencies or for purposes preparatory to his return to the community pursuant to Section 4018.6, to return to the place of confinement not later than the expiration of a period during which, pursuant to that law, he is authorized to be away from such place of confinement, is an escape from such place of confinement punishable as provided in this subdivision.

A conviction of violation of this subdivision, not by force or violence, shall not be charged as a prior felony conviction in any subsequent prosecution for a public offense.

(b) Every prisoner arrested and booked for, charged with, or convicted of a felony who is confined in any county or city jail or prison or industrial farm or industrial road camp or who is engaged on any county road or other county work or who is in the lawful custody of any officer or person, or who is confined pursuant to Section 4011.9, who escapes or attempts to escape from such county or city jail, prison, industrial farm or industrial road camp or from the custody of the officer or person in charge of him while engaged in or going to or returning from such county work or from the custody of any officer or person in whose lawful custody he is, or from such confinement pursuant to Section 4011.9, is guilty of a felony and, if such escape or attempt to escape was not by force or violence, is punishable by imprisonment in the state prison for 16 months, or two or three years to be served consecutively, or in the county jail not exceeding one year; provided, that if such escape or attempt to escape is by force or violence, such person is guilty of a felony and is punishable by imprisonment in the state prison for two, four, or six years to be served consecutively, or in the county jail not exceeding one year; provided that when such second term of imprisonment is to be served in the county jail it shall commence from the time such prisoner would otherwise have been discharged from such jail.

(c) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any person who is convicted of a felony offense under this section in that he or she escaped or attempted to escape from a secure main jail facility, from a court building or while being transported between the court building and the jail facility. In any case in which a person is convicted, of such an offense designated as a misdemeanor, he or she shall be confined in the county jail for not less than 90 days nor more than one year except in unusual cases where the interests of justice would best be served by the granting of probation. For the purposes of this subdivision, "main jail facility" is the facility used for the detention of persons pending arraignment, after arraignment, during trial and upon sentence or commitment. Such facility shall not include an industrial farm, industrial road camp, work furlough facility, or any other nonsecure facility used primarily for sentenced prisoners. As used in this subdivision "secure" means that the facility contains an outer perimeter

characterized by the use of physically restricting construction, hardware, and procedures designed to eliminate ingress and egress from the facility except through a closely supervised gate or doorway.

If the court grants probation under this subdivision, it shall specify the reason or reasons for such order on the court record.

Any sentence imposed under this subdivision shall be served consecutive to any other sentence in effect or pending.

SEC. 8. Section 1168 of the Penal Code is amended to read:

1168. (a) Every person who commits a public offense, for which any specification of three time periods of imprisonment in any state prison is now prescribed by law or for which only a single term of imprisonment in state prison is specified shall, unless such convicted person be placed on probation, a new trial granted, or the imposing of sentence suspended, be sentenced pursuant to Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2.

(b) For any person not sentenced under such provision, but who is sentenced to be imprisoned in the state prison, including imprisonment not exceeding one year and one day, the court imposing the sentence shall not fix the term or duration of the period of imprisonment.

SEC. 9. Section 1170 of the Penal Code is amended to read:

1170. (a) (1) The Legislature finds and declares that the purpose of imprisonment for crime is punishment. This purpose is best served by terms proportionate to the seriousness of the offense with provision for uniformity in the sentences of offenders committing the same offense under similar circumstances. The Legislature further finds and declares that the elimination of disparity and the provision of uniformity of sentences can best be achieved by determinate sentences fixed by statute in proportion to the seriousness of the offense as determined by the Legislature to be imposed by the court with specified discretion.

(2) In any case in which the punishment prescribed by statute for a person convicted of a public offense is a term of imprisonment in the state prison of 16 months, two or three years; two, three, or four years; two, three, or five years; three, four, or five years; two, four, or six years; three, four, or six years; three, five, or seven years; three, six, or eight years; five, seven, or nine years; five, seven, or 11 years, or any other specification of three time periods, the court shall sentence the defendant to one of the terms of imprisonment specified unless such convicted person is given any other disposition provided by law, including a fine, jail, probation, or the suspension of imposition or execution of sentence or is sentenced pursuant to subdivision (b) of Section 1168 because he had committed his crime prior to July 1, 1977. In sentencing the convicted person, the court shall apply the sentencing rules of the Judicial Council. The court, unless it determines that there are circumstances in mitigation of the punishment prescribed, shall also impose any other term which it is required by law to impose as an additional term. Nothing in this

article shall affect any provision of law which imposes the death penalty, which authorizes or restricts the granting of probation or suspending the execution or imposition of sentence, or expressly provides for imprisonment in the state prison for life. In any case in which the amount of preimprisonment credit under Section 2900.5 or any other provision of law is equal to or exceeds any sentence imposed pursuant to this chapter, the entire sentence, including any period of parole under Section 3000, shall be deemed to have been served and the defendant shall not be actually delivered to the custody of the Director of Corrections. However, any such sentence shall be deemed a separate prior prison term under Section 667.5, and a copy of the judgment and other necessary documentation shall be forwarded to the Director of Corrections.

(b) When a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the court shall order imposition of the middle term, unless there are circumstances in aggravation or mitigation of the crime. At least four days prior to the time set for imposition of judgment either party may submit a statement in aggravation or mitigation to dispute facts in the record or the probation officer's report, or to present additional facts. In determining whether there are circumstances that justify imposition of the upper or lower term, the court may consider the record in the case, the probation officer's report, other reports including reports received pursuant to Section 1203.03 and statements in aggravation or mitigation submitted by the prosecution or the defendant, and any further evidence introduced at the sentencing hearing. The court shall set forth on the record the facts and reasons for imposing the upper or lower term. The court may not impose an upper term by using the fact of any enhancement upon which sentence is imposed under Section 667.5, 1170.1, 12022, 12022.5, 12022.6, or 12022.7. A term of imprisonment shall not be specified if imposition of sentence is suspended.

(c) The court shall state the reasons for its sentence choice on the record at the time of sentencing. The court shall also inform the defendant that as part of the sentence after expiration of the term he may be on parole for a period as provided in Section 3000.

(d) When a defendant subject to this section or subdivision (b) of Section 1168 has been sentenced to be imprisoned in the state prison and has been committed to the custody of the Director of Corrections, the court may, within 120 days of the date of commitment on its own motion, or at any time upon the recommendation of the Director of Corrections or the Board of Prison Terms, recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if he had not previously been sentenced, provided the new sentence, if any, is no greater than the initial sentence. The resentence under this subdivision shall apply the sentencing rules of the Judicial Council so as to eliminate disparity of sentences and to promote uniformity of sentencing. Credit shall be given for time served.

(e) Any sentence imposed under this article shall be subject to the provisions of Sections 3000 and 3057 and any other applicable provisions of law.

(f) (1) Within one year after the commencement of the term of imprisonment, the Board of Prison Terms shall review the sentence to determine whether the sentence is disparate in comparison with the sentences imposed in similar cases. If the Board of Prison Terms determines that the sentence is disparate, the board shall notify the judge, the district attorney, the defense attorney, the defendant, and the Judicial Council. The notification shall include a statement of the reasons for finding the sentence disparate.

Within 120 days of receipt of this information, the sentencing court shall schedule a hearing and may recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if the defendant had not been sentenced previously, provided the new sentence is no greater than the initial sentence. In resentencing under this subdivision the court shall apply the sentencing rules of the Judicial Council and shall consider the information provided by the Board of Prison Terms.

(2) The review under this section shall concern the decision to deny probation and the sentencing decisions enumerated in paragraphs (2), (3), (4), and (5) of subdivision (a) of Section 1170.3 and apply the sentencing rules of the Judicial Council and the information regarding the sentences in this state of other persons convicted of similar crimes so as to eliminate disparity of sentences and to promote uniformity of sentencing.

(g) Prior to sentencing pursuant to this chapter, the court may request information from the Board of Prison Terms concerning the sentences in this state of other persons convicted of similar crimes under similar circumstances.

(h) A sentence to state prison for a determinate term for which only one term is specified, is a sentence to state prison under this section.

SEC. 10. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1433

An act to amend Section 28, and to repeal and add Section 29, of the Penal Code, relating to crimes.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 28 of the Penal Code is amended to read:

28. (a) Evidence of mental disease, mental defect, or mental disorder shall not be admitted to show or negate the capacity to form any mental state, including, but not limited to, purpose, intent, knowledge, premeditation, deliberation, or malice aforethought, with which the accused committed the act. Evidence of mental disease, mental defect, or mental disorder is admissible solely on the issue of whether or not the accused actually formed a required specific intent, premeditated, deliberated, or harbored malice aforethought, when a specific intent crime is charged.

(b) As a matter of public policy there shall be no defense of diminished capacity, diminished responsibility, or irresistible impulse in a criminal action or juvenile adjudication hearing.

(c) This section shall not be applicable to an insanity hearing pursuant to Section 1026 or 1429.5.

(d) Nothing is this section shall limit a court's discretion, pursuant to the Evidence Code, to exclude psychiatric or psychological evidence on whether the accused had a mental disease, mental defect, or mental disorder at the time of the alleged offense.

SEC. 2. Section 29 of the Penal Code is repealed.

SEC. 3. Section 29 is added to the Penal Code, to read:

29. In the guilt phase of a criminal action, any expert testifying about a defendant's mental illness, mental disorder, or mental defect shall not testify as to whether the defendant had or did not have the required mental states, which include, but are not limited to, purpose, intent, knowledge, or malice aforethought, for the crimes charged. The question as to whether the defendant had or did not have the required mental states shall be decided by the trier of fact.

SEC. 4. Sections 2 and 3 of this act shall not become operative unless this act is passed in each house of the Legislature by a two-thirds vote of the membership concurring.

CHAPTER 1434

An act to add Section 11162.5 to the Health and Safety Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 11162.5 is added to the Health and Safety Code, to read:

11162.5. (a) Every person who counterfeits a prescription blank purporting to be an official prescription blank prepared and issued pursuant to Section 11161, or knowingly possesses more than three such counterfeited prescription blanks, shall be punished by imprisonment in the state prison or by imprisonment in the county jail for not more than one year.

(b) Every person who knowingly possesses three or fewer counterfeited prescription blanks purporting to be official prescription blanks prepared and issued pursuant to Section 11161, shall be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars ($1,000), or by both.

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

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to prevent the further manufacture and possession of counterfeit prescription blanks for controlled substances at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1435

An act to amend and renumber Section 620 of, and to add Chapter 4.3 (commencing with Section 610) to Division 3 of the Harbors and Navigation Code, relating to vessels, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

I am deleting the $3 million loan for rehabilitation of the Oyster Point Marina contained in Section 4 of Senate Bill No. 2273.

The deleted appropriation was added as a last-minute amendment to this measure

which provides for regulation of persons engaged in the business of small boat towing.

The loan did not have the benefit of a full legislative review. A $3 million outlay should have such a review.

With this deletion, I approve Senate Bill No. 2273.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Chapter 4.3 (commencing with Section 610) is added to Division 3 of the Harbors and Navigation Code, to read:

CHAPTER 4.3. SMALL BOAT TOWING AND SAFETY

610. As used in this chapter:

(a) "Small boat" means a boat or other watercraft of 20 meters or less in length.

(b) "The business of small boat towing" means the business of rendering aid or assistance to a small boat on the water for compensation using a towing vessel that is less than 26 feet in length measured from end to end over the deck (excluding sheer).

(c) "Department" means the Department of Boating and Waterways.

(d) "Director" means the Director of the Department of Boating and Waterways.

(e) "Prior agreement" means an agreement which is arranged or determined before rendering aid or assistance is commenced, whether the agreement is reduced to writing or not and whether the writing is made before or after rendering aid or assistance.

(f) "Render aid or assistance" means towing or providing that aid or assistance which enables a distressed or disabled small boat to be delivered to a location of the boat operator's choice or to proceed safely under its own power.

611. No person may engage in the business of small boat towing within the state unless that person holds a valid certificate of registration as a small boat towing service issued by the department.

612. No person may engage in the business of small boat towing within the state unless the following minimum requirements are met with respect to the conduct of the business:

(a) The vessel used in the business is under the command of a person who is one of the following:

(1) Determined by the director, pursuant to regulations adopted by the director, to be qualified to operate a towing vessel.

(2) In possession of a current certificate of qualification for nonemergent commercial assistance from the United States Coast Guard.

(3) In possession of a current certificate of competence for nonemergent commercial assistance from the California Maritime Academy.

(b) The vessel used in the business and the operator of the vessel are in compliance with all federal and state boating laws and all regulations adopted by the director.

613. The owner or operator of a boat harbor or other moorage is not engaged in the business of small boat towing merely by reason of either rendering aid or assistance to boats regularly berthed or moored in that harbor or moorage or launched from that harbor or moorage.

614. This chapter does not apply to any governmental entity.

615. The director shall issue a certificate of registration as a small boat towing service to any person upon receipt of proof satisfactory to the director of the applicant's compliance with the provisions of this chapter and compliance with regulations adopted by the director pursuant to this chapter, including proof of adequate liability protection, and the payment of the fee established pursuant to Section 622. The liability protection shall be evidenced by a policy of insurance, a surety bond, or evidence of qualification as a self-insurer, as specified by the director, in an amount, established by the director after a public hearing, which is reasonably necessary to provide adequate compensation for personal bodily injuries, including death resulting therefrom, and property damage as a result of an accident involving the rendering of aid or assistance under this chapter. However, the director may establish the required amount of liability protection by emergency regulation without a public hearing, provided that a public hearing on that subject shall be held on or before March 1, 1985. The certificate of registration shall be valid for two years from the date of issuance and shall be renewed biennially thereafter. The applicant shall furnish to the director, and keep current, a schedule of fees for services provided by the applicant under this chapter.

616. A certificate of registration shall be suspended if proof of insurance or financial responsibility, as required by the director, is not maintained. A certificate of registration may be suspended for violation of this code or any regulation adopted by the director pursuant to this code. If a certificate of registration is suspended, the holder of the certificate shall be notified by the department by certified mail. The period of suspension shall be determined by the department, but in no event shall the suspension be longer than one year.

617. (a) Any small boat towing business registered under this chapter which renders aid or assistance to a distressed or disabled small boat may sue for compensation for the services rendered in a court of competent jurisdiction. Any person receiving the services may file with the court and the director a request for arbitration in lieu of further court proceedings. Upon the request being granted, the person shall pay the fee prescribed in subdivision (b) of Section 622 to the director.

(b) Any small boat towing business registered under this chapter which renders aid or assistance to an operator of a distressed or

disabled small boat, or any operator of a small boat who receives those services from a person providing them, may file with the director, upon payment of the fee prescribed in subdivision (b) of Section 622, a request for an arbitration hearing to settle conflicting claims between the two parties.

(c) Any arbitration award which is greater than fifty dollars ($50) shall provide for interest at the rate specified in Section 685.010 of the Code of Civil Procedure from the date the claim arose.

618. If a person engaged in the business of small boat towing renders aid or assistance, without a prior agreement as to the amount of compensation for those services, the person is entitled to fair and reasonable compensation as determined by the arbitrator.

619. Upon receipt of a request for arbitration pursuant to Section 617, the director shall appoint a single neutral arbitrator who shall decide upon the merits of the case and make a judgment therein.

620. Any person who violates any provision of this chapter, or any regulation adopted by the department pursuant to this chapter, is guilty of a misdemeanor.

621. The department may adopt regulations to implement or make more specific the provisions of this chapter.

622. (a) The director shall establish the amount of the fee for an application for the initial issuance of a certificate of registration and the fee for an application for the renewal of a certificate. The fees shall be in amounts, determined by the director, necessary to pay the costs of the administration and enforcement of this chapter.

(b) The director shall establish the amount of the fee for arbitration pursuant to Section 617. The fee shall be an amount, determined by the director, necessary to pay the costs of arbitration services.

623. All fees collected under this chapter shall be deposited in the Harbors and Watercraft Revolving Fund to be expended by the department, when appropriated by the Legislature, for the administration and enforcement of this chapter.

624. The director may sue, in the name of the people of the State of California, to enjoin violation of this chapter.

SEC. 2. Section 620 of the Harbors and Navigation Code is amended and renumbered to read:

630. The operator of every privately owned marina or small craft harbor or facilities in connection therewith furnishing electrical power to slips or berths, for use aboard any vessel may provide facilities for submetering to measure the electrical power actually used by or aboard each vessel and may base charges therefor upon such use.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime

or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 4. The sum of three million dollars ($3,000,000) is hereby appropriated from the Harbors and Watercraft Revolving Fund to the Department of Boating and Waterways for making a loan to the San Mateo County Harbor District pursuant to Section 71.4 of the Harbors and Navigation Code, to be used exclusively to rehabilitate the Oyster Point Marina.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

There is an urgent need to provide adequate protection for California's recreational boaters, who no longer may rely solely on the United States Coast Guard to render aid or assistance to boaters whose boats are distressed or disabled. In order to authorize the Department of Boating and Waterways to implement appropriate regulations for the protection of recreational boaters at the earliest possible time, it is necessary that this act take effect immediately. Additionally, unless moneys are appropriated without delay, construction of the Oyster Point Marina will be halted, which would result in serious public safety problems and adverse financial consequences for the San Mateo County Harbor District and vessels in the district.

CHAPTER 1436

An act making an appropriation for the payment of certain claims against the State of California, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

I am reducing the appropriations contained in Assembly Bill No. 2961 from $33,136,714 to $1,366,100.

I am deleting the following appropriations:

1. The $22,407,919 appropriation in Schedule (c) to reimburse claims of school districts pursuant to the provisions of Section 42243.6 of the Education Code,
2. The $3,507,200 appropriation in Section 1 of Schedule (d) to reimburse one school district for costs incurred under Section 42243.6 of the Education Code;
3. The $5,209,939 appropriation in Section 2 of Schedule (d) to reimburse one school district for costs incurred under Chapter 1619 of the Statutes of 1982; and
4. The $645,556 appropriation in Section 3 of Schedule (d) to reimburse one school district for costs incurred under Chapter 1619 of the Statutes of 1982.

Chapter 418, Statutes of 1984 (SB 1992), appropriated $37 million for the same programs. I believe the state should fund the costs of this program for 1984–85 and future years. If the funding provided in the 1984–85 budget and SB 1992 are not sufficient to fund the costs for 1984–85, I will request a deficiency appropriation to make up the shortfall.

With this reduction, I approve Assembly Bill No. 2961.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. The sum of thirty-three million one hundred thirty-six thousand seven hundred fourteen dollars ($33,136,714) is hereby appropriated from the General Fund to the Controller for the payment of claims for reimbursement of costs according to the following schedule:

(a) Twenty-six thousand one hundred dollars ($26,100) to the Controller for the payment of claims of cities and counties, filed pursuant to Section 2231 of the Revenue and Taxation Code, seeking reimbursable state-mandated costs incurred under Chapter 1095 of the Statutes of 1981, for the 1981–82 fiscal year.

(b) One million three hundred forty thousand dollars ($1,340,000) to the Controller for the payment of claims of counties, filed pursuant to Section 2231 of the Revenue and Taxation Code, seeking reimbursable state-mandated costs incurred under Chapter 1262 of the Statutes of 1978, for the 1981–82, 1982–83, 1983–84, and 1984–85 fiscal years.

(c) Twenty-two million four hundred seven thousand nine hundred nineteen dollars ($22,407,919) to the Controller for the payment of claims of school districts pursuant to the provisions of Section 42243.6 of the Education Code, in accordance with the following schedule:

(1) Los Angeles Unified School District	$21,416,967
(2) San Bernardino Unified School District	573,180
(3) San Diego Unified School District	417,772

(d) Although reimbursement of the following claims is not required by Section 6 of Article XIII B of the California Constitution, the Legislature does hereby provide the following funds:

(1) Three million five hundred seven thousand two hundred dollars ($3,507,200) to the Controller for the payment of a claim of the San Francisco Unified School District for costs incurred under Education Code Section 42243.6; and Chapter 324 of the Statutes of 1983 Item 6100-114-001 (3), for the 1982–83 and 1983–84 fiscal years.

(2) Five million two hundred nine thousand nine hundred thirty-nine dollars ($5,209,939) to the Controller for the payment of a claim of the Long Beach Unified School District for costs incurred under Chapter 1619 of the Statutes of 1982.

(3) Six hundred forty-five thousand five hundred fifty-six dollars ($645,556) to the Controller for the payment of a claim of the San Jose Unified School District for costs incurred under Chapter 1619 of the Statutes of 1982.

SEC. 2. The Legislature finds and declares that Chapter 1275 of the Statutes of 1975 does not contain a mandate.

SEC. 3. The Legislature finds and declares that Sections 3401 to

3409, inclusive, of Title 8 of the California Administrative Code do not contain a mandate.

SEC. 4. The Legislature finds and declares that Chapter 1114 of the Statutes of 1979 does contain a mandate, but the Legislature merely directs the Board of Control to revise its parameters and guidelines to assure that only increased costs under that chapter are reimbursed.

SEC. 5. This act is an urgency statute necessary for the preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to settle local government claims against the state for mandated costs, end hardship to local governments, and comply with the provisions of Article XIII B of the California Constitution, it is necessary that this act take effect immediately.

CHAPTER 1437

An act to amend Section 51.7 of the Civil Code, relating to civil rights.

[Approved by Governor September 26, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 51.7 of the Civil Code is amended to read:

51.7. (a) All persons within the jurisdiction of this state have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of their race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, disability, or position in a labor dispute.

(b) As used in this section, "sexual orientation" means heterosexuality, homosexuality, or bisexuality.

CHAPTER 1438

An act to add Sections 21005, 21167.6, and 21167.8 to the Public Resources Code, relating to environmental quality.

[Approved by Governor September 25, 1984 Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 21005 is added to the Public Resources Code, to read:

21005. The Legislature finds and declares that it is the policy of the state that noncompliance with the information disclosure or substantive provisions of this division which precludes relevant information from being presented to the public agency may constitute a prejudicial abuse of discretion within the meaning of Sections 21168 and 21168.5, regardless of whether a different outcome would have resulted if the public agency had complied with those provisions.

The Legislature further finds and declares that, in undertaking judicial review pursuant to Sections 21168 and 21168.5, the courts shall continue to follow the established principle that there is no presumption that error is prejudicial.

SEC. 2. Section 21167.6 is added to the Public Resources Code, to read:

21167.6. (a) Notwithstanding any other provision of law, in all actions brought pursuant to Section 21167, except those involving the Public Utilities Commission, at the time the action is filed, the petitioner shall file a request that the respondent public agency prepare the record of proceedings relating to the subject of the action. The request, together with the petition, shall be served upon the public agency not later than 10 business days after the action is filed.

(b) The public agency shall prepare and certify the record of proceedings not later than 60 days after the request specified in subdivision (a) is served upon the public agency, provided that the parties pay any costs or fees for preparation of the administrative record, imposed in conformance with statute and rules of court. The parties may agree to an alternative method of preparation of the record of proceedings, subject to certification of its accuracy by the public agency, within the time limit specified in this subdivision.

(c) The time limit established by subdivision (b) may be extended only upon stipulation of all parties who have been properly served in the action or upon order of the court. Extensions shall be liberally granted by the court when the size of the record of proceedings renders infeasible compliance with the time limit specified in subdivision (b). There shall be no limit on the number of extensions which may be granted by the court, but no single extension shall exceed 60 days.

(d) The clerk of the superior court shall prepare and certify the clerk's transcript on appeal not later than 60 days after the notice designating the papers or records to be included in the clerk's transcript is filed with the superior court, provided that the party or parties pay any costs or fees for preparation of the clerk's transcript imposed in conformance with statute or rules of court. Nothing contained in this subdivision shall preclude election to proceed

pursuant to Rule 5.1 of the California Rules of Court.

(e) Extensions of the period for the filing of any brief on appeal may be allowed only by stipulation of the parties or by order of the court for good cause shown. Extensions shall be limited to one 30-day extension for the preparation of an opening brief, and one 30-day extension for the preparation of a responding brief.

(f) When all of the briefs have been filed, the appellant shall so notify the reviewing court, and the clerk of that court shall set the appeal for hearing on the first available calendar date.

SEC. 3. Section 21167.8 is added to the Public Resources Code, to read:

21167.8. (a) Not later than 20 days after service upon a public agency of a petition or complaint brought pursuant to Section 21167, the public agency shall file a notice with the court setting forth the time and place at which all parties shall meet and attempt to settle the litigation. The meeting shall be scheduled and held not later than 45 days after the date of service of the petition or complaint upon the public agency. The notice of the settlement meeting shall be served by mail upon the counsel for each party. If the public agency does not know the identity of counsel for any party, the notice shall be served by mail upon the party for whom counsel is not known.

(b) The petitioner or plaintiff shall serve by mail on all parties a presettlement statement not less than five days in advance of the meeting. The statement shall include, but not be limited to, all of the following:

(1) A concise description of the case, including a brief procedural history, and all the facts material to consideration of the issues presented by the litigation.

(2) The anticipated issues to be raised in the litigation. Counsels shall confer with their clients in advance regarding settlement and shall be prepared to negotiate a settlement whenever reasonably possible.

(c) At the time and place specified in the notice filed with the court, the parties shall meet and attempt in good faith to settle the litigation and the dispute which forms the basis of the litigation. The settlement meeting discussions shall be comprehensive in nature and shall focus on the legal issues raised by the parties concerning the project that is the subject of the litigation.

(d) The settlement meeting may be continued from time to time without postponing or otherwise delaying other applicable time limits in the litigation. The settlement is intended to be conducted concurrently with other procedures authorized by law or rule or regulation.

(e) After the settlement procedure is completed, the parties shall jointly prepare, sign, and file with the court a settlement statement, including, but not limited to, all of the following:

(1) The legal and factual contentions raised by each party.

(2) The contentions that were settled or otherwise agreed upon and the nature of that agreement.

(3) The efforts made by each party to settle the unresolved issues.

(4) The list of participants in the settlement proceedings.

(f) If the litigation is not settled, the court, in its discretion, may, or at the request of any party shall, schedule a further settlement conference before a judge of the superior court. If the petition or complaint is later heard on its merits, the judge hearing the matter shall not be the same judge conducting the settlement conference, except in counties with only one judge of the superior court.

(g) Failure of any party who was notified pursuant to subdivision (a) to participate in the process described in this section may result in an imposition of sanctions by the court. The failure of the petitioner or plaintiff to participate in the process described in this section without good cause shall result in dismissal with prejudice of the action.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 1439

An act to amend Sections 15382, 15383, 15384, 15386, 15388, and 15389 of, and to repeal and add Section 15385 of, the Government Code, relating to economic and business development.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 15382 of the Government Code is amended to read:

15382. For the purposes of this chapter:

(a) "SBDC" means a Small Business Development Center as defined by federal Public Law 96-302.

(b) "SBDC plan" means the plan required by the federal Small Business Administration pursuant to federal Public Law 96-302.

(c) "CSBDC" means the California Small Business Development Center, the administrative unit of the program.

(d) "Local service centers" means branch centers or service delivery units.

(e) "Lead organization" means the Department of Economic and Business Development which is the formal applicant for the Small Business Development Center program pursuant to federal Public Law 96-302.

SEC. 2. Section 15383 of the Government Code is amended to

read:

15383. The SBDC plan shall describe the purpose of the centers, the services to be provided to small businesses, the location of the central SBDC and branch centers, the timetable for the operation of the center, how the provision of services will be made to small businesses, and how the local service centers will become independent of state funds.

The plan shall also describe how the SBDC will provide at least the following:

(a) Business startup analyses, technical assistance, financial planning services and seminars and conferences for persons establishing or expanding small businesses.

(b) Information on the availability of federal and state tax incentives for investment in small businesses and employee training programs.

(c) The collection and dissemination of economic and business data pertinent to small businesses, such as demography, market analyses and work force surveys.

(d) A system whereby small businesses can be linked to research and development institutions for the purposes of transferring new technology to a new or expanding small business.

(e) Access to all existing resources of small business assistance from the local, state, and federal governments and any or all private organizations.

SEC. 3. Section 15384 of the Government Code is amended to read:

15384. There is hereby created within the department a California Small Business Development Center. The CSBDC shall be administered according to the SBDC plan. The department shall develop an SBDC plan for submission to the federal Small Business Administration. The SBDC plan shall be developed by the department with the assistance of the following:

(a) The Office of Small Business Development within the Department of Economic and Business Development.

(b) The Office of Small and Minority Business within the Department of General Services.

(c) The Employment Development Department.

(d) The Chancellor of the California Community Colleges.

(e) The Chancellor of the California State University.

(f) The President of the University of California.

(g) The California Private Industry Councils.

(h) The Chairpersons of the Assembly Select Committee on Small Business, the Senate Select Committee on Small Business Enterprises, the Assembly Committee on Economic Development and New Technologies, and the Joint Committee on the State's Economy.

The department may also solicit assistance from any other private, state, local, or federal entity which assists small businesses.

SEC. 4. Section 15385 of the Government Code is repealed.

SEC. 5. Section 15385 is added to the Government Code, to read:

15385. In accordance with the plan developed pursuant to Sections 15383 and 15384, the Director of the CSBDC shall be appointed, upon the recommendation by the Director of the Department of Economic and Business Development, by the Governor. The director shall hold office at the pleasure of the Governor, and shall receive a salary as shall be fixed by the Director of the Department of Economic and Business Development with the approval of the Department of Personnel Administration.

The services to be provided by the local service centers as defined in the SBDC plan may be performed by independent contractors or by interagency agreements with public institutions, as designated by the CSBDC.

SEC. 6. Section 15386 of the Government Code is amended to read:

15386. In order to reduce costs to the state, the department shall include in the SBDC plan a means to solicit private contributions for the operation of the CSBDC and local service centers.

SEC. 7. Section 15388 of the Government Code is amended to read:

15388. There is hereby established the California Small Business Development Center Fund, moneys for which shall be appropriated in the annual Budget Act. All private contributions, state and federal funds, and fees for services, if levied, shall be deposited into the fund for the operation of the CSBDC and local service centers. The Controller shall disburse such money as it is available in the fund upon the request of the lead organization.

The lead organization shall submit an annual budget, for inclusion in the Governor's Budget, showing funding from all sources.

SEC. 8. Section 15389 of the Government Code is amended to read:

15389. The department shall report to the Legislature annually the effects of the SBDC program on the small business community in California.

CHAPTER 1440

An act to add Section 8265.1 to, and to add Article 20 (commencing with Section 8440) and Article 21 (commencing with Section 8448) to Chapter 2 of Part 6 of, the Education Code, relating to child care and development.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. The Legislature hereby finds and declares as follows:

(a) The presence of public and private agencies, small as well as large, in the subsidized child care delivery system, provides client families with a range of desirable services and cost-effective service mechanisms.

(b) That on numerous occasions confusion has been displayed as to the state requirements for the contract bidding and award process, and in the contracts management and evaluation process.

(c) The establishment of consistent audit requirements will improve the financial management of direct service contracts, promote the efficient use of audit resources, and insure public accountability for direct service contracts.

(d) The State Department of Education may permit contracts to be awarded to contractors with satisfactory performance records for periods up to two years.

(e) It is the further intent of the Legislature that yearly renewals of these contracts be accomplished in a timely manner, and without disruptions of service arising from administrative delays.

SEC. 2. Section 8265.1 is added to the Education Code, to read:

8265.1. Rate increases authorized by paragraph (2) of subdivision (d) of Section 8265 shall be in effect from July 1 of the contract year for which the rate increase is requested. The State Department of Education shall develop a rate increase process, for alternative payment and other similar program types, between October 1 and March 30. Decisions regarding rate increases shall be made within 60 days by the State Department of Education.

SEC. 3. Article 20 (commencing with Section 8440) is added to Chapter 2 of Part 6 of the Education Code, to read:

Article 20. Direct Service Contract Procedure

8440. The State Department of Education shall develop an annual calendar identifying target dates for contract application deadlines, contract award announcements, contract approvals, and contract evaluations. Each calendar shall be available to the public and shall be updated at least annually.

8441. The State Department of Education shall develop and maintain a central distribution list for application announcements.

8442. Application announcements shall contain, but not be limited to, the following information: the goals and objectives of the program, identification of the specific minimum range of services to be purchased related to those goals, quantitative as well as qualitative measures which will be used by the department to evaluate service outcomes, specific criteria and a description of the methodology and timetable which will be followed to review and approve applications, and all minimum performance standards any agency is required to

meet prior to direct service contract approval.

8443. (a) The State Department of Education shall include all of the following in the application announcement:

(1) The time estimated for each step.

(2) The specific staff names, office addresses, and telephone numbers for those responsible for each step.

(3) The legal requirements and signatory approvals required prior to final approval of any contract.

Any conditions for advance payments shall also be identified.

(b) This information shall be provided in any application announcement.

8444. The State Department of Education shall identify and transmit to all agencies awarded direct service contracts forms required for contract payments, management information or reports required pursuant to contract objectives, and conditions and methods for contract evaluations. Methods and conditions for payment recoveries, withholding of payments, and contract terminations relating to nonperformance shall also be identified. This information shall be provided in all cases prior to final approval of any direct service contract, unless the information is provided in the contract document.

8445. The State Department of Education shall develop a grievance procedure for resolving disputes arising from the awarding or administering of direct service contracts, in addition to the remedies provided under the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

8446. The State Department of Education shall prepare an implementation schedule to develop the information required pursuant to this chapter. This schedule shall be transmitted within 90 days after the effective date of this chapter to the Joint Legislative Budget Committee and the Assembly and Senate Offices of Research for their review. The implementation schedule shall cover the period of one year from the effective date of this chapter.

SEC. 4. Article 21 (commencing with Section 8448) is added to Chapter 2 of Part 6 of the Education Code, to read:

Article 21. Direct Service Contract Audit Requirements

8448. As used in this article:

(a) "Financial and compliance audit" means a systematic review or appraisal to determine each of the following:

(1) Whether the financial statements of an audited organization fairly present the financial position and the results of financial operations in accordance with generally accepted accounting principles.

(2) Whether the organization has complied with laws and regulations that may have a material effect upon the financial statements.

(b) "Public accountants" means certified public accountants, or state licensed public accountants.

(c) "Independent auditors" means public accountants who have no direct or indirect relationship with the functions or activities being audited or with the business conducted by any of the officials or contractors being audited.

(d) "Generally accepted auditing standards" means the auditing standards set forth in the financial and compliance element of the "Standards for Audit of Governmental Organization, Programs, Activities, and Functions" issued by the Comptroller General of the United States and incorporating the audit standards of the American Institute of Certified Public Accountants.

(e) "Direct service contract" means any contract with any public or private entity for child care and development programs, resource and referral programs, and programs contracting to provide support services as defined in Section 8208.

(f) "Nonprofit organization" means an organization described in Section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under Section 501(a) of that code, or any nonprofit, scientific, or educational organization qualified under Section 23701d of the Revenue and Taxation Code.

(g) Annually, there shall be a single independent financial and compliance audit of organizations that contract with the state under a direct service contract. Any such audit shall include an evaluation of the accounting and control systems of the direct service contractor and of the activities by the contractor to comply with the financial requirements of direct service contracts received by the contractor from the state agency. The financial and compliance requirements to be reviewed during the audit shall be those developed and published by the State Department of Education in consultation with the Department of Finance and the Auditor General. Audits carried out pursuant to this section shall be audits of the contractor rather than audits of individual contracts or programs. In the case of any contractor that receives less than twenty-five thousand dollars ($25,000) per year from any state agency, the audit required by this section shall be conducted biennially, unless there is evidence of fraud or other violation of state law in connection with the direct service contract. The cost of the audit may be included in direct service contracts.

The organization receiving funds from the state shall be responsible for obtaining the required financial and compliance audits of the organization and any subcontractors, except for direct service subcontracts and other subcontracts exempt from State Department of Education review, as agreed to by the Departments of Finance and General Services. The audits shall be made by independent auditors in accordance with generally accepted auditing standards. The audit shall be completed by the 15th day of the fifth month following the end of the contractor's fiscal year. A copy of the required audit will be filed with the State Department

of Education upon its completion. In the event an audit is not filed, the State Department of Education will notify the organization of the contract violation. The audit report filed will be an integral part of the direct service contract file.

(i) (1) Nothing in this article limits the authority of the State Department of Education to make audits of direct service contracts. However, if independent audits arranged for by direct service contractors meet generally accepted auditing standards, the State Department of Education shall rely on those audits and any additional audit work shall build upon the work already done.

(2) Nothing in this article precludes the state from conducting, or contracting for the conduct of, contract performance audits which are not financial and compliance audits.

(3) Nothing in this article limits the state's responsibility or authority to enforce state law or regulations, procedures, or reporting requirements arising pursuant thereto.

(4) Nothing in this article limits the responsibility of the State Department of Education to provide an independent appeal procedure according to the provisions of the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

CHAPTER 1441

An act to amend Section 11004 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 11004 of the Welfare and Institutions Code is amended to read:

11004. The provisions of this code relative to public social services for which state grants-in-aid are made to the counties shall be administered fairly to the end that all persons who are eligible and apply for such public social services shall receive the assistance to which they are entitled promptly, with due consideration for the needs of applicants and the safeguarding of public funds.

(a) Any applicant for, or recipient or payee of, such public social services shall be informed as to the provisions of eligibility and his or her responsibility for reporting facts material to a correct determination of eligibility and grant.

(b) Any applicant for, or recipient or payee of, such public social services shall be responsible for reporting accurately and completely within his or her competence those facts required of him or her pursuant to subdivision (a) and to report promptly any changes in

those facts.

(c) Current and future grants payable to an assistance unit may be reduced because of prior overpayments to the extent permitted by federal law. In every case, grant payments shall be reduced to a level no lower than 90 percent of the grant, when added to the family's liquid resources and income, appropriate to families in similar conditions to the assistance unit being adjusted. If permitted by federal law, grant payments to be adjusted because of prior overpayments caused by agency errors shall be reduced to a level no lower than 95 percent of the grant when added to the family's liquid resources and income, appropriate to families in similar conditions to the assistance unit being adjusted.

(d) No determination of ineligibility shall be made retrospectively so as to result in an assessment of an overpayment in circumstances where there is a failure on the part of an applicant or recipient to perform an act constituting a condition of eligibility, if the failure is caused by an error made by a state agency or a county welfare department, and if the amount of the grant received by the applicant or recipient would not have been different had the act been performed.

(e) Prior to effectuating any reduction of current grants to recover past overpayments, the recipient shall be advised of the proposed reduction and of his or her entitlement to a hearing on the propriety of the reduction.

(f) If the department determines after a hearing that an overpayment has occurred, the county providing the public social services shall seek to recover in accordance with subdivision (c) the full amount of the overpayment to the assistance unit, including any amount paid while the hearing process was pending, if required in order to conform to federal law or regulation. Such adjustment shall be permitted concurrently with any suit for restitution, and recovery of overpayment by adjustment shall reduce by the amount of such recovery the extent of liability for restitution.

(g) If the individual responsible for the overpayment to the assistance unit is no longer eligible for public social services or if he or she becomes a member of another assistance unit, recoupment of overpayments shall be made against the individual or his or her present assistance unit, or both, to the extent consistent with the provisions of federal law.

(h) Where an overpayment has been made to an assistance unit which is no longer receiving public social services, recovery shall be made by appropriate action under state law against the income or resources of the individual responsible for the overpayment or against the family.

(i) No civil or criminal action may be commenced against any person based on alleged unlawful application for or receipt of public social services, where the case record of such person has been destroyed after the expiration of the four-year retention period pursuant to Section 10851.

(j) When an underpayment or denial of public social service occurs and as a result the applicant or recipient does not receive the amount to which he or she is entitled, the county shall provide public social services equal to the full amount of the underpayment unless prohibited by federal law.

Any corrective payments made pursuant to this subdivision shall be disregarded in determining the income of the family and shall be disregarded in determining the resources of the family in the month the corrective payment is made and in the following month.

(k) This subdivision shall be applicable only to applicants, recipients and payees under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9. Any suits to recover overpayments described in subdivision (f) shall be brought on behalf of the county by the county counsel unless the board of supervisors delegates such duty to the district attorney by ordinance or resolution.

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

SEC. 3. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1442

An act to add Chapter 7.5 (commencing with Section 18070) to Part 2 of Division 13 of, and to repeal Sections 18046, 18046.5, and 18047 of, the Health and Safety Code, relating to mobilehomes, and making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 18046 of the Health and Safety Code is repealed.

SEC. 2. Section 18046.5 of the Health and Safety Code is repealed.

SEC. 3. Section 18047 of the Health and Safety Code is repealed.

SEC. 4. Chapter 7.5 (commencing with Section 18070) is added to Part 2 of Division 13 of the Health and Safety Code, to read:

CHAPTER 7.5. MOBILEHOME RECOVERY FUND

18070. There is hereby created in the State Treasury the Mobilehome Recovery Fund. The money in the fund shall be used only for the purposes of this chapter, except that it may be invested pursuant to Chapter 3 (commencing with Section 16430) of Part 2 of Division 4 of Title 2 of the Government Code. All income derived from investments of the fund shall be returned to the fund by the Treasurer as the income is earned. Notwithstanding Section 13340 of the Government Code, the money in the fund is hereby continuously appropriated to make the payments and distributions required by this chapter.

18070.1. (a) On and after January 1, 1985, before a dealer's license is issued or renewed, each applicant shall pay a fee of two hundred fifty dollars ($250).

(b) (1) The fee required by subdivision (a) shall not be collected more than once. In addition, each dealer shall pay a fee of one hundred dollars ($100) for each additional business location operated by the dealer and for each new business location.

(2) In addition, before a mobilehome salesperson's license is issued or renewed, each applicant shall pay a fee of twenty-five dollars ($25). This fee shall not be collected more than once.

(c) For each sale of a mobilehome or manufactured home reported to the department, a fee not to exceed ten dollars ($10) shall be collected by the department for deposit in the Mobilehome Recovery Fund prior to the issuance of a new registration.

18070.2. (a) Fees for the establishment and operation of the Mobilehome Recovery Fund shall be collected on or after January 1, 1985. Claims against the fund arising from sales which occur after January 1, 1985, may not be submitted to the department before January 1, 1986. For purposes of this section, the date of sale shall be either of the following:

(1) The date escrow closes for sales by dealers which are subject to Section 18035 or 18035.2.

(2) For sales other than sales by dealers, the date when the purchaser has paid the purchase price or, in lieu thereof, has signed a security agreement or purchase contract and has taken physical possession or delivery of the manufactured home or mobilehome.

(b) Notwithstanding any other provision of law, whenever the balance in the Mobilehome Recovery Fund exceeds one million dollars ($1,000,000) on January 1 of any year, the department may reduce the fee provided for in subdivision (c) of Section 18070.1. The department may again increase the fee up to a maximum of ten dollars ($10) whenever the balance in the fund falls below one million dollars ($1,000,000).

18070.3. (a) When any person who has purchased a mobilehome for a personal, family, or household residential purpose obtains a final judgment in any court of competent jurisdiction against any mobilehome dealer, salesperson, or other seller on the grounds of

failure to honor warranties or guarantees, or for fraud, or for willful misrepresentation of the kind or quality of the product sold, arising directly out of any transaction which occurs on or after January 1, 1985, the person, upon termination of all proceedings including appeals, may file a claim with the department for an order directing payment out of the fund of the amount of actual and direct loss in the transaction, including court costs and reasonable attorney fees not to exceed 15 percent of the judgment, which remains unpaid upon the judgment. Nothing in this section shall obligate the fund for more than forty thousand dollars ($40,000) or the amount of the judgment, whichever is less, with respect to any one sales transaction on a new mobilehome, or twenty thousand dollars ($20,000) or the amount of the judgment, whichever is less, with respect to any one sales transaction on a used mobilehome. No person applying for recovery from the fund shall apply for judgment on any bond issued prior to January 1, 1985.

(b) Prior to payment of any claim against the fund, the claimant shall have first executed judgment against all the assets of the judgment debtor or present evidence satisfactory to the department that the debtor is judgment proof.

(c) A claim against the fund shall be filed with the department within one year from the date of the judgment.

(d) When any person files a claim for an order directing payment from the fund, the department shall conduct a review of the application, and it may issue an order directing payment out of the fund as provided in subdivision (a), subject to the limitations of subdivision (a), if the judgment creditor shows all of the following:

(1) That he or she is not a spouse of the judgment debtor or a person representing the spouse.

(2) That he or she is making an application not more than one year after the judgment was entered.

(3) That the claimant has executed judgment against all assets of the judgment debtor or has presented evidence satisfactory to the department that the judgment debtor is judgment proof.

(e) Upon an order of the department directing that payment be made out of the fund, the Controller is authorized to draw a warrant for the payment of the judgment.

18070.4. The judgment debtor shall be liable for repayment in full for the amount arising from claims against the debtor which are paid from the fund, with interest at the prevailing prime rate. A discharge in bankruptcy shall not relieve a person from the disabilities and penalties of this section.

18070.5. When upon order of any court, the department has caused payment to be made from the fund to a judgment creditor who has complied with Section 18070.6, the department shall be subrogated to the rights of the judgment creditor.

SEC. 5. Sections 1 to 3, inclusive, of this act shall become operative January 1, 1986.

CHAPTER 1443

An act to add and repeal Section 65852.8 of the Government Code, relating to zoning, and making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. The Legislature finds and declares that manufactured housing offers Californians the opportunity to own and live in decent, safe, and affordable housing on a permanent basis. The Legislature further finds that the enactment of Chapter 1142 of the Statutes of 1980 and Chapter 974 of the Statutes of 1981 made significant changes relating to the zoning of property for mobilehomes, and that any failure of local communities to implement the provisions of those statutes limits the opportunity for Californians to live in mobilehomes on lots zoned for residential land use or for single-family housing.

SEC. 2. Section 65852.8 is added to the Government Code, to read:

65852.8. (a) The Department of Housing and Community Development shall conduct a study on the implementation of Chapter 1142 of the Statutes of 1980 and Chapter 974 of the Statutes of 1981 by cities, counties, and cities and counties, and report its findings and recommendations to the Legislature by December 31, 1985. In developing the scope and methodology for the study, the Department of Housing and Community Development shall consult with representatives of the mobilehome industry, local government, financial institutions, and the Legislature.

(b) The study shall provide information which addresses, but is not limited to, the following questions:

(1) How many cities, counties, and cities and counties have designated lots zoned for single-family dwellings for mobilehomes?

(2) What is the approximate amount of vacant land on which cities, counties, and cities and counties are permitting the installation of mobilehomes?

(3) To what degree are cities, counties, and cities and counties changing zoning to multifamily lots to avoid implementation of Chapter 1142 of the Statutes of 1980?

(4) To what degree are cities, counties, and cities and counties designating lots within zones to avoid implementation of Chapter 1142 of the Statutes of 1980?

(5) To what degree have manufactured houses been located on single-family lots?

(6) To what degree have proposals been denied for the construction of mobilehome parks on lands zoned for residential use? What is the reason for those denials?

(7) To what degree have proposals for the construction of mobilehome parks on lands zoned for residential use been submitted to planning departments and at what density per acre? Approximately how many ultimately have received formal hearings by zoning agencies of cities, counties, and cities and counties?

(8) To what degree have proposals for the construction of mobilehome parks been denied whereby the park would have been situated on land designated by the general plan as residential, but not currently zoned for residential use?

(c) Based on the findings of the study conducted pursuant to this section, the Department of Housing and Community Development shall make recommendations to the Legislature for changes in the provisions of Chapter 1142 of the Statutes of 1980 and Chapter 974 of the Statutes of 1981.

(d) This section shall become inoperative on July 1, 1986, and as of January 1, 1987, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1987, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. The sum of fifty thousand dollars ($50,000) is hereby appropriated from the Mobilehome-Manufactured Home Revolving Fund to the Department of Housing and Community Development for the purposes of Section 65852.8 of the Government Code.

CHAPTER 1444

An act to amend Sections 11342, 11346.53, 11346.7, and 11347.3 of the Government Code, and to amend Section 1 of Chapter 1083 of the Statutes of 1983, relating to administrative regulations, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 1 of Chapter 1083 of the Statutes of 1982 is amended to read:

Section 1. The Legislature finds and declares that:

(1) Laws and regulations designed for application to large scale entities have been applied uniformly to small businesses even though the problems that gave rise to government action may not have been caused by those smaller businesses.

(2) Uniform state regulatory and reporting requirements have in numerous instances imposed unnecessary and disproportionately burdensome demands, including legal, accounting and consulting costs, upon small businesses with limited resources.

(3) The practice of treating all regulated businesses as equivalents may lead to inefficient use of regulatory agency resources,

enforcement problems, and, in some cases, to actions inconsistent with health, safety, environmental and economic welfare legislation enacted by the Legislature.

(4) Alternative regulatory approaches which do not conflict with the stated objectives of applicable statutes may be available which minimize the significant economic impact of rules upon small businesses.

(5) Therefore, it is the purpose of this act, which shall be known as the Small Business Regulatory Fairness Act, to establish a principle of regulatory practice whereby agencies shall endeavor, consistent with the objectives of the regulation and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses subject to regulation.

(6) It is also the intent of the Legislature that the duties and responsibilities provided for in Section 11346.53, in paragraph (4) of subdivision (a) of, and in paragraph (4) of subdivision (b) of, Section 11346.7 relating to small businesses shall be accomplished by utilizing existing staff resources and that no additional funding be provided other than that which is appropriated by the Legislature in the annual Budget Act.

SEC. 2. Section 11342 of the Government Code is amended to read:

11342. In this chapter unless otherwise specifically indicated:

(a) "State agency" and "agency" does not include an agency in the judicial or legislative departments of the state government.

(b) "Regulation" means every rule, regulation, order, or standard of general application or the amendment, supplement or revision of any such rule, regulation, order or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure, except one which relates only to the internal management of the state agency. "Regulation" does not mean or include legal rulings of counsel issued by the Franchise Tax Board or State Board of Equalization, or any form prescribed by a state agency or any instructions relating to the use of the form, but this provision is not a limitation upon any requirement that a regulation be adopted pursuant to this part when one is needed to implement the law under which the form is issued.

(c) "Order of repeal" means any resolution, order or other official act of a state agency which expressly repeals a regulation in whole or in part.

(d) "Office" means the Office of Administrative Law.

(e) "Small business" means:

(1) A business activity, unless excluded in paragraph (2), that is all of the following:

(A) Independently owned and operated.

(B) Not dominant in its field of operation.

(C) Not exceeding the following annual gross receipts in the categories of:

(i) Agriculture, one million dollars ($1,000,000).

(ii) General construction, nine million five hundred thousand dollars ($9,500,000).

(iii) Special trade construction, five million dollars ($5,000,000).

(iv) Retail trade, two million dollars ($2,000,000).

(v) Wholesale trade, nine million five hundred thousand dollars ($9,500,000).

(vi) Services, two million dollars ($2,000,000).

(vii) Transportation and warehousing, one million five hundred thousand dollars ($1,500,000).

(D) A manufacturing enterprise not exceeding 250 employees.

(E) A health care facility not exceeding 150 beds or one million five hundred thousand dollars ($1,500,000) in annual gross receipts.

(F) Generating and transmitting electric power not exceeding 4.5 million kilowatt hours annually.

(2) The following professional and business activities shall not be considered a small business for purposes of this act:

(A) Financial institutions including banks, trusts, savings and loan associations, thrift institutions, consumer and industrial finance companies, credit unions, mortgage and investment bankers, and stock and bond brokers.

(B) Insurance companies, both stock and mutual.

(C) Mineral, oil, and gas brokers; subdividers and developers.

(D) Landscape architects, architects, and building designers.

(E) Entities organized as nonprofit institutions.

(F) Entertainment activities and productions including motion pictures, stage performances, television and radio stations, and production companies.

(G) All utilities, water companies, and power transmission companies, except electrical power generating transmission companies providing less than 4.5 million kilowatt hours annually.

(H) All petroleum and natural gas producers, refiners and pipelines.

SEC. 3. Section 11346.53 of the Government Code is amended to read:

11346.53. (a) If a state agency in proposing to adopt or amend any administrative regulation, determines that such action may have a significant adverse economic impact on small business, it shall include the following information in the notice of proposed action:

(1) Identification of the types of small businesses that would be affected.

(2) A description of the projected reporting, recordkeeping and other compliance requirements that would result from the proposed action.

(3) The following statement: "The (name of agency) finds that the (adoption/amendment) of this regulation may have a significant adverse economic impact on small businesses. The (name of agency) (has/has not) considered proposed alternatives that would lessen any adverse economic impact on small business and invites you to submit such proposals. Submissions may include the following

considerations:

"(A) The establishment of differing compliance or reporting requirements or timetables which take into account the resources available to small businesses.

"(B) Consolidation or simplification of compliance and reporting requirements for small businesses.

"(C) The use of performance standards rather than design standards.

"(D) Exemption or partial exemption from the regulatory requirements for small businesses."

(b) The state agency proposing to adopt or amend any regulation shall refer in the notice to any studies or relevant data which were relied upon in making the determination that the regulation has no adverse impact.

(c) If a state agency in adopting or amending any administrative regulation determines that such action will not have a significant adverse economic impact on small business, it shall make such a declaration in the notice of proposed action.

(d) An agency's determination and declaration that a proposed regulation may have or will not have a significant, adverse impact on small businesses shall not be grounds for the office to refuse to publish the notice of proposed action.

(e) A state agency shall also include in the notice of proposed action a statement of the potential cost impact of the proposed action on private persons or businesses directly affected, other than small businesses as defined in subdivision (e) of Section 11342, as considered by the agency during the regulatory development process. If the cost impact of the action is expected to be insignificant, or was not considered in the development process, the agency shall so indicate.

For purposes of this subdivision "cost impact" means the reasonable range of costs, or a description of the type and extent of costs, direct or indirect, which a representative private person or business necessarily incurs in reasonable compliance with the proposed action.

SEC. 4. Section 11346.7 of the Government Code is amended to read:

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

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

(1) A description of the public problem, administrative requirement, or other condition or circumstance the regulation is

intended to address.

(2) A statement of the specific purpose of the regulation and the factual basis for the determination by the agency that the regulation is reasonably necessary to carry out the purpose for which it is proposed.

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

(4) A description of any alternatives the agency has identified that would lessen any adverse impact on small businesses. It is not the intent of this subdivision to require the agency to artificially construct alternatives or to justify why it has not identified alternatives.

(b) Prepare and submit to the office with the adopted regulation a final statement of reasons which shall include all of the following:

(1) An update of the information contained in the initial statement of reasons.

(2) A determination as to whether the regulation imposes a mandate on local agencies or school districts. If the determination is that the regulation does contain a local mandate, the agency shall state whether the mandate is reimbursable pursuant to Section 2231 of the Revenue and Taxation Code. If the agency finds that the mandate is not reimbursable it shall state the reasons for that finding.

(3) A summary of each objection or comment made regarding the regulation, together with an explanation of how the proposed regulation has been amended to accommodate each objection or comment, or the reasons for rejecting each objection or comment.

(4) An explanation setting forth the reasons for rejecting any proposed alternatives that would lessen the adverse economic impact on small businesses.

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

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

regulation.

SEC. 5. Section 11347.3 of the Government Code is amended to read:

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

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

(2) All published notices of proposed adoption, amendment, or repeal of the regulation, and an updated informative digest, the initial statement of reasons, and the final statement of reasons.

(3) The determination, together with the supporting data required by paragraph (5) of subdivision (a) of Section 11346.5.

(4) The determination, together with the supporting data required by subdivision (b) of Section 11346.53.

(5) The estimate, together with the supporting data and calculations, required by paragraph (6) of subdivision (a) of Section 11346.5 and Section 11346.51.

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

(7) All data and other factual information, technical, theoretical, and empirical studies or reports, if any, on which the agency is relying in the adoption, amendment, or repeal of a regulation, including any cost impact estimates as required by Section 11346.53.

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

(9) The date on which the agency made available to the public for 15 days prior to the adoption, amendment, or repeal of the regulation the full text as required by subdivision (c) of Section 11346.8 if the agency made changes to the regulation noticed to the public.

(10) The text of regulations as originally proposed and the modified text of regulations, if any, that were made available to the public prior to adoption.

(11) Any other information, statement, report or data which the agency is required by law to consider or prepare in connection with the adoption, amendment or repeal of a regulation.

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

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

SEC. 6. This act is an urgency statute necessary for the

immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to correct technical errors in the California Small Business Regulatory Fairness Act, as soon as possible, it is necessary that this act go into immediate effect.

CHAPTER 1445

An act to add Section 13009.1 to the Health and Safety Code, relating to fires and fire protection.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 13009.1 is added to the Health and Safety Code, to read:

13009.1. (a) Any person who negligently, or in violation of the law, sets a fire, allows a fire to be set, or allows a fire kindled or attended by him or her to escape onto any public or private property is liable for both of the following:

(1) The cost of investigating and making any reports with respect to the fire.

(2) The costs relating to accounting for that fire and the collection of any funds pursuant to Section 13009, including, but not limited to, the administrative costs of operating a fire suppression cost recovery program. The liability imposed pursuant to this paragraph is limited to the actual amount expended which is attributable to the fire, but not to exceed 10 percent of the amount recoverable pursuant to Section 13009.

(b) In any civil action brought for the recovery of costs provided in this section, the court in its discretion may impose the amount of liability for costs described in subdivision (a).

(c) The burden of proof as to liability shall be on the plaintiff and shall be by a preponderance of the evidence in an action alleging that the defendant is liable for costs pursuant to this section. The burden of proof as to the amount of costs recoverable shall be on the plaintiff and shall be by a preponderance of the evidence in any action brought pursuant to this section.

(d) Any testimony, admission, or any other statement made by the defendant in any proceeding brought pursuant to this section, or any evidence derived from the testimony, admission or other statement, shall not be admitted or otherwise used in any criminal proceeding arising out of the same conduct.

(e) The liability constitutes a debt of that person and is collectible by the person, or by the federal, state, county, public, or private

agency, incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied.

CHAPTER 1446

An act to amend Section 4516.5 of, and to add Section 4516.6 to, the Public Resources Code, relating to forest practices.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 4516.5 of the Public Resources Code is amended to read:

4516.5. (a) Individual counties may recommend that the board adopt additional rules and regulations for the content of timber harvesting plans and the conduct of timber operations to take account of local needs. For purposes of this section, "timber operations" includes, but is not limited to, soil erosion control, protection of stream character and water quality, water distribution systems, flood control, stand density control, reforestation methods, mass soil movements, location and grade of roads and skid trails, excavation and fill requirements, slash and debris disposal, haul routes and schedules, hours and dates of logging, and performance bond or other reasonable surety requirements for onsite timber operations and for protection of publicly and privately owned roads that are part of the haul route. Where a bond or other surety has been required, the director shall not issue a work completion report without first ascertaining whether the county in which the timber operations were conducted has knowledge of any claims intended to be made on the bond or surety.

(b) The board shall, in conformance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and within 180 days after receiving recommended rules and regulations from a county, adopt rules and regulations for the content of timber harvesting plans and the conduct of timber operations consistent with the recommended rules and regulations, subject to Section 4551.5, if the board finds the recommended rules and regulations are both of the following:

(1) Consistent with the intent and purposes of this chapter.

(2) Necessary to protect needs and conditions of the county recommending them.

(c) The rules and regulations, if adopted by the board, shall apply only to the conduct of timber operations within the recommending county and shall be enforced and implemented by the department in the same manner as other rules and regulations adopted by the board.

(d) Except as provided in subdivision (e), individual counties shall not otherwise regulate the conduct of timber operations, as defined by this chapter, or require the issuance of any permit or license for those operations.

(e) The board may delegate to individual counties its authority to require performance bonds or other surety for the protection of roads, in which case, the procedures and forms shall be the same as those used in similar circumstances in the county. The board may establish reasonable limits on the amount of performance bonds or other surety which may be required for any timber operation and criteria for the requirement, payment, and release of those bonds or other surety. If the county fails to inform the director of the claims within 30 days after the completion report has been filed, the bond or surety shall be released.

(f) This section does not apply to timber operations on any land area of less than three acres and which is not zoned timberland production.

SEC. 2. Section 4516.6 is added to the Public Resources Code, to read:

4516.6. (a) In order to provide for adequate public review and comment, notwithstanding Section 4582.7, the director shall not approve a timber harvesting plan in any county for which rules and regulations have been adopted pursuant to Section 4516.5 until 35 days from the date of filing of the plan, and timber operations shall not commence until five days from the date of approval of the plan. The board may provide, by regulation, for those periods to be waived or shortened by the department upon a determination, pursuant to criteria and procedures established by the board, that the proposed timber operations will cause no significant environmental damage or threat to public safety, or where the timber operations are necessary to reduce a threat to public safety, health, or general welfare. If the chairman of the board of supervisors of the county in which the proposed timber operations are located notifies the director and the plan submitter that the county intends to appeal the approval of the plan and that the county meets the requirements for filing an appeal, no timber operations shall occur until the final determination of the appeal. If the board of supervisors determines not to appeal the approval of the plan, it shall immediately notify the director and the plan submitter in writing of that determination, and timber operations pursuant to the plan may commence immediately.

(b) The board of supervisors of the county for which rules and regulations have been adopted pursuant to Section 4516.5 may, not later than 10 days after approval of the plan by the director, appeal that approval, provided the county (1) participated in the initial inspection of the plan area with the director and (2) participated in a multidisciplinary review of the plan. The board may establish procedures for filing an appeal and may specify findings which the board of supervisors is required to make in filing an appeal in order to demonstrate that a substantial issue is raised with respect to the

environment or public safety.

(c) The board shall grant a hearing if it determines that the appeal raises substantial issues with respect to the environment or to public safety. The board, by regulation, may delegate this determination to its chairman.

(d) The board shall hold a public hearing within 30 days of filing of the appeal, or a longer period mutually agreed upon by the board, the county, and the plan submitter. Upon conclusion of the hearing, the board shall approve or deny the plan. The basis of the board's decision shall be conformance with the rules of the board, including any rules enacted with respect to the county pursuant to Section 4516.5, and the provisions of this chapter. In denying a plan, the board may make findings that set forth conditions under which it believes the plan would have been approved. The board may delegate conduct of the hearing and the decision to a committee of three members to be appointed for that hearing by the chairman of the board. The committee shall consist of at least two general public members of the board. The chairman of the board or the chairman's designee shall conduct the hearing. The decision of the committee shall have the full force of a decision of the full board.

(e) This section does not apply to timber operations on any land area of less than three acres and which is not zoned timberland production.

CHAPTER 1447

An act to amend Section 11450.1, to amend and repeal Sections 11008.13, 11008.14, 11157, 11158, 11267, 11308, 11450, 14005.8, and 14006 of, and to add and repeal Sections 11008.15 and 11257.5 to, the Welfare and Institutions Code, relating to public social services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 11008.13 of the Welfare and Institutions Code is amended to read:

11008.13. To the same extent as required by federal law, and as otherwise consistent with other provisions of this chapter:

(a) The income and resources of a sponsor and his or her spouse shall be deemed as the income and resources of an alien who is an applicant for or recipient of aid under Chapter 2 (commencing with Section 11200).

(b) Any alien applicant or recipient, whose sponsor is a public or private agency, shall be ineligible for aid under Chapter 2

(commencing with Section 11200) during the period of three years after his or her entry into the United States. However, this ineligibility shall cease when it is determined that the sponsoring agency no longer exists or is unable to meet the alien's needs.

(c) As a condition of eligibility, any individual who is an alien, during the period of three years after entry into the United States, shall be required to provide any information and documentation with respect to his or her sponsor as may be necessary in order to make any determination required under this section.

(d) If it is determined that as a result of a sponsor's failure to provide correct information an overpayment has been made to an alien, the alien and his or her sponsor shall be jointly and severally liable for repayments. Any such overpayment which is not repaid by the alien or sponsor shall be subject to recoupment pursuant to the provision of Section 11004.

The provisions of this section shall not apply to any alien who is:

(1) Admitted to the United States as a result of the application, prior to April 1, 1980, of the provisions of Section 203(a)(7) of the Immigration and Nationality Act.

(2) Admitted to the United States as a result of the application, after March 31, 1980, of the provisions of Section 207(c)(1) of that act.

(3) Paroled into the United States as a refugee under Section 212(d)(5) of that act.

(4) Granted political asylum by the Attorney General under Section 208 of that act.

(5) A Cuban or Haitian entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980.

This section shall be applied to all applicants for, and recipients of, aid under Chapter 2, (commencing with Section 11200), regardless of whether federal financial participation is available for the family.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1987, pursuant to Section 9611 of the Government Code, Section 11008.13 of the Welfare and Institutions Code, as added by Section 5 of Chapter 3 of the Statutes of 1981–82 1st Extraordinary Session, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. Section 11008.14 of the Welfare and Institutions Code is amended to read:

11008.14. To the same extent as required by federal law, the income of the natural or adoptive parent, and the spouse of the natural or adoptive parent, and the sibling of an eligible child, living in the same home with an eligible child shall be considered available, in addition to the income of an applicant for or recipient of aid under Chapter 2 (commencing with Section 11200), for purposes of eligibility determination and grant computation. In the case of a parent or legal guardian of a minor who is also the parent of an

eligible child, the income of the parent or guardian shall be considered available to the minor parent and eligible child to the same extent that income to a stepparent is considered available to an assistance unit, consistent with federal law.

This section shall be applied to all applicants for, and recipients of, aid under Chapter 2, (commencing with Section 11200), regardless of whether federal financial participation is available for the family.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1987, pursuant to Section 9611 of the Government Code, Section 11008.14 of the Welfare and Institutions Code, as added by Section 6 of Chapter 3 the Statutes of 1981–82 1st Extraordinary Session, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 3. Section 11008.15 is added to the Welfare and Institutions Code, to read:

11008.15. Notwithstanding Sections 11008.14 and 11267, the department shall exercise the options of disregarding earned income of a dependent child derived from participation in the Job Training Partnership Act of 1982 (PL 97-300) and of a dependent child who is a full-time student pursuant to the Deficit Reduction Act of 1984 (PL 98-369).

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute chaptered prior to that date extends or deletes that date.

SEC. 4. Section 11157 of the Welfare and Institutions Code is amended to read:

11157. Notwithstanding Section 11008, all lump-sum income received by an applicant or recipient shall be regarded as income in the month received except nonrecurring lump-sum social insurance payments, which social insurance payments shall include but are not limited to social security income, railroad retirement benefits, veteran's benefits, workman's compensation, and disability insurance.

To the same extent as required, as a condition for receipt of federal funds, by federal law, lump-sum payments of income, as defined by federal law, received by an applicant for or recipient of aid under Chapter 2 (commencing with Section 11200) shall be considered income in the month received and the family shall be ineligible for aid for the number of months that equals the sum of all income received during such month less all applicable income disregards divided by the standard of need applicable to the family under Section 11452, with any remainder to be considered as income received in the first month following the period of ineligibility, should the family again request aid. The period of ineligibility may be shortened, to the extent permitted by federal law, only if the family experiences a life threatening circumstance requiring the

expenditure of the lump-sum payment.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1987, pursuant to Section 9611 of the Government Code, Section 11157 of the Welfare and Institutions Code, as amended by Section 10 of Chapter 3 the Statutes of 1981–82 1st Extraordinary Session, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 5. Section 11158 of the Welfare and Institutions Code is amended to read:

11158. The Legislature recognizes that certain property and rights owned by a recipient, including a recipient of aid to families with dependent children, are of negligible value in enabling the recipient to meet his or her present needs, and should not be classified as available resources of the recipient. It is the purpose of this section to designate such property and rights.

Resources available to a recipient, including a recipient of aid to families with dependent children shall not include all of the following:

(a) Money or securities placed in an irrevocable trust for funeral, cremation, or interment expenses with any of the trustees mentioned in Section 7736 of the Business and Professions Code or Section 8775 of the Health and Safety Code.

(b) Money or securities placed in an irrevocable trust created by a deposit in an insured savings institution made by one person of his or her own money in his or her own name as trustee for a funeral director to provide payment for funeral services rendered by the funeral director upon the depositor's death.

(c) Life or burial insurance purchased specifically for funeral, cremation, or interment expense, which is placed in an irrevocable trust or which has no loan or surrender value available to the recipient.

(d) Securities issued by a licensed cemetery authority which by their terms are convertible only into payment for funeral, cremation, or interment expenses.

(e) Other funeral agreements to the extent consistent with federal law.

For the purposes of evaluating the personal property of a recipient, interment plots as defined in Section 7022 of the Health and Safety Code shall be deemed to have no value.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1987, pursuant to Section 9611 of the Government Code, Section 11158 of the Welfare and Institutions Code, as amended by Section 3 of Chapter 1520 the Statutes of 1982, shall have the same force and

effect as if this temporary provision had not been enacted.

SEC. 6. Section 11257.5 is added to the Welfare and Institutions Code, to read:

11257.5. Notwithstanding the property limitations in subdivision (a) of Section 11257, a family may retain, for six months, real property if the family is making a good faith effort to sell the real property. However, any aid payable to the family for the six-month period shall be conditioned upon the sale. At the time of the sale any aid payments made during the six-month period shall be considered overpayments to the extent they would not have been made had the sale occurred at the beginning of the six-month period. Notwithstanding Section 11004 overpayments shall be recouped from the proceeds of the sale. If the real property has not been sold at the end of the six-month period, the family shall be ineligible for aid if the combined net value of the real and personal property owned by the family exceeds the one thousand dollar ($1,000) limitation in Section 11257.

Notwithstanding Section 11007 as a condition to the granting of aid pursuant to this section, the family shall grant the county a lien upon the real property as security for the aid to be paid. The lien shall be used to recoup any overpayments incurred pursuant to this section. Notwithstanding any other provision of law, the lien shall not be enforceable by the sale of the secured property by the county. The lien of the county shall be paid upon the sale of the property.

The department shall define good faith effort in regulation.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute chaptered prior to that date extends or deletes that date.

SEC. 7. Section 11267 of the Welfare and Institutions Code is amended to read:

11267. To the extent permitted by federal law and regulations, no child or family is eligible to receive aid under this chapter if the total gross income, exclusive of grant payment, prior to any deductions available to such child or family exceeds 185 percent of the minimum basic standard of adequate care applicable to such child or family.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1987, pursuant to Section 9611 of the Government Code, Section 11267 of the Welfare and Institutions Code, as added by Section 25.2 of Chapter 578 the Statutes of 1971, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 8. Section 11308 of the Welfare and Institutions Code is amended to read:

11308. (a) Upon notification by the Employment Development Department that, pursuant to Chapter 4 (commencing with Section 5300) of Division 2 of the Unemployment Insurance Code, an individual registered pursuant to Section 11310 has been found to

have failed or refused to appear for appraisal, to accept employment, or to otherwise participate in a work incentive program, the county department shall apply the following sanctions:

(1) For the first such occurrence, the individual shall be deregistered for three payment-months.

(2) For the second and each subsequent occurrence, the individual shall be deregistered for six payment-months.

(b) During the sanction period specified in subdivision (a), the following sanctions shall also apply:

(1) If such individual is a caretaker relative receiving aid under this chapter, his or her needs shall not be taken into account in determining the family's need for assistance, and assistance in the form of protective or vendor payments shall be provided to the remaining members of the assistance unit to the extent required by federal law.

(2) If the parent who is the principal wage earner makes such refusal, assistance to the family shall be denied.

(3) If such individual is the only dependent child in the family, assistance for the family shall be denied.

(4) If such individual is one of several dependent children in the family, assistance for such child shall be denied and his or her needs shall not be taken into account in determining the family's need for assistance.

(c) If an individual is a volunteer registrant and a recipient of aid under this chapter and has failed or refused to participate in the work incentive program without good cause, the sanctions specified in subdivision (a) shall apply, but the sanctions specified in subdivision (b) shall not apply.

(d) For the purposes of this section, the term "principal wage earner" shall be defined as the parent who earns the greatest amount of income during the two-year period immediately preceding application for benefits.

(e) The sanctions provided by this section shall become effective on the first day of the first payment-month that the sanctioned individual's needs are removed from aid under this chapter.

(f) In the event the provisions of this section conflict with federal law, the department shall adopt regulations to conform state regulations to federal law.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1987, pursuant to Section 9611 of the Government Code, Section 11308 of the Welfare and Institutions Code, as amended by Section 5 of Chapter 1037 the Statutes of 1982, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 9. Section 11450 of the Welfare and Institutions Code is amended to read:

11450. (a) For each needy family which shall include all eligible

brothers and sisters of each eligible applicant or recipient child and the parents of the children, but shall not include unborn children, or recipients of aid under Chapter 3 (commencing with Section 12000), qualified for aid under this chapter, there shall be paid, notwithstanding minimum basic standards of adequate care established by the department under Section 11452, an amount of aid each month which when added to the family's income, exclusive of any amounts considered exempt as income or paid pursuant to subdivision (e) or Section 11453.1, is equal to the sums specified in the following table, as adjusted for cost-of-living increases pursuant to Section 11453:

Number of eligible needy persons in the same home	Maximum aid
1	$ 258
2	424
3	526
4	625
5	713
6	802
7	880
8	959
9	1,036
10 or more	1,114

If, when and during such times as the United States government increases or decreases its contributions in assistance of needy children in this state above or below the amount paid on July 1, 1972, the amounts specified in the above table shall be increased or decreased by an amount equal to such increase or decrease by the United States government, provided that no such increase or decrease shall be subject to subsequent adjustment pursuant to Section 11453.

(b) When the family does not include a needy child qualified for aid under this chapter, aid shall be paid to a pregnant mother in the amount which would otherwise be paid to one person as specified in subdivision (a) from the date of verification of pregnancy if the mother, and child if born, would have qualified for aid under this chapter.

(c) The amount of seventy dollars ($70) per month shall be paid to pregnant mothers qualified for aid under subdivision (a) or (b) to meet special needs resulting from pregnancy if the mother, and child, if born, would have qualified for aid under this chapter. County welfare departments shall refer all recipients of aid under this subdivision to a local provider of the Women, Infants and Children program. If such payment to pregnant mothers qualified for aid under subdivision (a) is considered income under federal law in the first five months of pregnancy, payments under this subdivision shall

not apply to persons eligible under subdivision (a), except for the month in which birth is anticipated and for the three-month period immediately prior to the month in which delivery is anticipated, if the mother, and the child if born, would have qualified for aid under this chapter.

(d) For children receiving AFDC-FC under the provisions of this chapter, there shall be paid, exclusive of any amount considered exempt as income, an amount of aid each month which when added to the child's income is equal to the rate specified in Section 11461, 11462, 11462.1, or 11463. In addition, the child shall be eligible for special needs, as specified in departmental regulations.

(e) (1) In addition to the amounts payable under subdivision (a) and Section 11453.1, a family shall be entitled to receive an allowance for recurring special needs not common to a majority of recipients. These recurring special needs shall include, but not be limited to, special diets upon the recommendation of a physician for circumstances other than pregnancy, and unusual costs of transportation, laundry, housekeeping service, telephone, and utilities. The recurring special needs allowance for each family per month shall not exceed that amount resulting from multiplying the sum of ten dollars ($10) by the number of recipients in the family who are eligible for assistance.

(2) After a family has used all available liquid resources, both exempt and nonexempt, the family shall also be entitled to receive an allowance for nonrecurring special needs caused by sudden and unusual circumstances beyond the control of the needy family. These nonrecurring special needs shall only be granted for replacement of clothing and household equipment and for emergency housing needs. The department shall establish the allowance for each of the nonrecurring special need items. The sum of all nonrecurring special needs for a family shall not exceed six hundred dollars ($600) per event.

(3) The department shall establish rules and regulations assuring the uniform application statewide of the provisions of this subdivision.

(4) The department shall notify all applicants and recipients of aid through the standardized application form that these benefits are available and shall provide an opportunity for recipients to apply for the funds quickly and efficiently.

(f) Except for the purposes of Section 15200, the amounts payable to recipients pursuant to Section 11453.1 shall not constitute part of the payment schedule set forth in subdivision (a) of this section.

The amounts payable to recipients pursuant to Section 11453.1 shall not constitute income to recipients of aid under this section.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1987, pursuant to Section 9611 of the Government Code, Section 11450 of

the Welfare and Institutions Code, as amended by Section 2 of Chapter 569 the Statutes of 1984, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 10. Section 11450.1 of the Welfare and Institutions Code is amended to read:

11450.1. During such times that federal law ceases to provide for a disregard of a certain portion of child support payments as is presently provided in Section 457 (a) (1) of the Social Security Act and to the extent that there is federal financial participation at a level of no less than 50 percent of the cost, 40 percent of the first fifty dollars ($50) of any amount collected in a month which represents payment on the required support obligation for that month shall be paid to the recipient and deducted from the amounts specified in Section 11452, not to exceed the amount of the difference between such amounts and the amount of the maximum aid payable pursuant to subdivision (a) of Section 11450.

The amount paid under this section shall not be considered income or resources of the recipient and shall not be deducted from the amount of aid to which the recipient would otherwise be entitled.

This section shall be inoperative until January 1, 1987, and on January 1, 1987, this section shall become operative.

SEC. 11. Section 14005.8 of the Welfare and Institutions Code is amended to read:

14005.8. To the extent required by federal law, families who have at any time ceased to receive public assistance under the Aid to Families with Dependent Children program solely due to the expiration of the provision which permits thirty dollars ($30) plus one-third of an individual's income to be disregarded when determining eligibility shall remain eligible for health care services under Section 14005.1 for a period of nine months.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1987, pursuant to Section 9611 of the Government Code, Section 14005.8 of the Welfare and Institutions Code, as amended by Section 99 of Chapter 102 the Statutes of 1981, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 12. Section 14006 of the Welfare and Institutions Code is amended to read:

14006. (a) For the purposes of Sections 14005.4 and 14005.7, the term "other resources" means the real or personal property, or any combination of both, held by a medically needy or medically indigent individual or family.

(b) For the purposes of this section, the term "principal residence" means the home, including a multiple-dwelling unit, in which the individual resides or formerly resided. The home will continue to be considered the principal residence if any of the following is applicable: (1) during any absence, the individual intends to

return to the home; (2) the individual lives in a skilled nursing or intermediate care facility and can reasonably be expected to return home; (3) the individual's spouse or a dependent relative of the individual continues to reside in the home during the individual's absence; (4) the individual does not have the right, authority, power, or legal capacity to liquidate the property, but a bona fide effort is being made to attain the right, authority, power, or legal capacity to liquidate the property; (5) the property cannot readily be converted to cash but a bona fide effort is being made to sell the property; (6) if it is a multiple-dwelling unit, one unit of which is occupied by the applicant or recipient, any unit not occupied by the applicant or recipient is producing income for the individual or family reasonably consistent with its value; or (7) it is inhabited by any sibling or child of the recipient who has continuously resided in the property since at least one year prior to the date the owner entered a skilled nursing or intermediate care facility. The state shall have a lien against the property, to the extent permitted by federal law, for the cost of medical services. The lien shall be recorded, and from the date of recording shall have force, effect, and priority of a judgment lien.

For purposes of this subdivision, "bona fide effort" means that the property shall be listed with a licensed real estate broker at the value determined to be the fair market value by a qualified real estate appraiser and the applicant or recipient provides evidence that a continuous effort is being made to sell the property, offers at fair market value are accepted, and all offers are reported.

(c) For purposes of determining eligibility under this part, resources shall be defined, counted, and valued in accordance with the federal law governing resources under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396, et seq). Resources exempt under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396, et seq) shall not be considered in determining eligibility. Medically needy individuals and families may retain nonexempt resources to the extent permitted under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396, et seq). In addition, the principal residence as defined in subdivision (b) shall be exempt.

(d) The director, to meet the requirements of the federal Social Security Act and to insure the highest percentage of federal financial participation in the program provided by this chapter, may decrease or increase the amounts set forth herein.

(e) If the holdings are in the form of real property, the value shall be the assessed value, determined under the most recent county property tax assessment, less the unpaid amount of any encumbrance of record.

If the real property other than the home is not producing income reasonably consistent with its value, the applicant or recipient shall be allowed reasonable time to begin producing such income from the property. If the property cannot produce reasonable income or be sold based on the market value, the applicant or recipient shall be allowed to submit evidence from a qualified real estate appraiser

which indicates the value for which the property can be adequately utilized or sold. If the applicant or recipient provides evidence that the only method of adequately utilizing the property is sale, and the property has not been sold at market value during a reasonable period of time, the property shall be considered to be adequately utilized provided it is listed with a licensed real estate broker at the value determined to be the fair market value by a qualified real estate appraiser and the applicant or recipient provides evidence that a bona fide and continuous effort is being made to sell the property.

(f) Any mortgage or note secured by a deed of trust shall be deemed real property if its value does not exceed six thousand dollars ($6,000) and it is obtained by the applicant or recipient, or in combination with his spouse, through the sale of such real property.

(g) If the holdings consist of money on deposit, the value shall be the actual amount thereof. If the holdings are in any other form of personal property or investment, except life insurance, the value shall be the conversion value as of the date of application or the anniversary date of such application. If the holdings are in the form of life insurance, the value shall be the cash value as of the policy anniversary nearest the date of such application.

(h) The value of property holdings shall be determined as of the date of application and, if the person is found eligible, this determination shall establish the amount of such holdings to be considered during the ensuing 12 months except a new determination to govern during the succeeding 12 months shall be made on the first anniversary date of the application or such alternate date as may be established following the acquisition of additional holdings as provided in the following paragraph and on each succeeding anniversary date thereafter.

(i) If any person shall by gift, inheritance, or other manner, acquire additional holdings during any such interval, other than from his own earnings, he shall immediately report such acquisition, and the anniversary date shall become the date of such acquisition.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1987, pursuant to Section 9611 of the Government Code, Section 14006 of the Welfare and Institutions Code, as amended by Section 1 of Chapter 1041 the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 13. To implement the provisions of this act and any other provisions required under the Federal Deficit Reduction Act of 1984 (PL 98-369):

(a) There is hereby appropriated, in augmentation of the Budget Act of 1984, from the General Fund, the sum of twenty-four million four hundred sixteen thousand seven hundred dollars ($24,416,700) as follows:

(1) Nineteen million one hundred sixty-three thousand dollars ($19,163,000) to the State Department of Social Services to augment Item 5180-101-001(a).

(2) Two hundred thousand dollars ($200,000) to the State Department of Social Services to augment Item 5180-141-001.

(3) One million four hundred ninety-seven thousand eight hundred dollars ($1,497,800) to the State Department of Health Services to augment Item 4260-101-001(a).

(4) Three million five hundred fifty-five thousand nine hundred dollars ($3,555,900) to the State Department of Health Services to augment Item 4260-101-001(b).

(b) There is hereby appropriated, in augmentation of the Budget Act of 1984, from the Social Welfare Federal Fund, after transfer from the Federal Trust Fund, the sum of twenty-five million eight hundred forty-five thousand six hundred dollars ($25,845,600), as follows:

(1) Twenty million five hundred seventy-eight thousand dollars ($20,578,000) to the State Department of Social Services to augment Item 5180-101-866(a).

(2) Four hundred forty-one thousand dollars ($441,000) to the State Department of Social Services to augment Item 5180-141-866.

(3) One million four hundred ninety-seven thousand eight hundred dollars ($1,497,800) to the State Department of Health Services to augment Item 4260-101-890(a).

(4) Three million three hundred twenty-eight thousand eight hundred dollars ($3,328,800) to the State Department of Health Services to augment Item 4260-101-890(b).

SEC. 14. Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the State Department of Social Services or the State Department of Health Services within 120 days of the enactment of this act in order to implement the provisions of this act and Sections 2622, 2623, 2624, 2629, and 2640 of the Deficit Reduction Act of 1984 (P.L. 98-369) shall not be subject to the review and approval of the Office of Administrative Law. The regulations shall not remain in effect more than 120 days unless the adopting agency complies with all the provisions of Chapter 3.5 as required by subdivision (e) of Section 11346.1 of the Government Code.

SEC. 15. The provisions of this act shall only become effective if SB 2171 is enacted during the 1983–84 Regular Session.

SEC. 16. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that essential changes are made in public social services programs, as soon as possible, it is necessary that this act go into immediate effect.

CHAPTER 1448

An act to amend Section 7480 of the Government Code, to repeal Section 396 of the Penal Code, and to amend Sections 11482, 11482.5, 11483, and 11483.5 of, to add and repeal Section 11462.5 of, to add Section 11481.5 to, and to add Chapter 9 (commencing with Section 10980) to Part 2 of Division 9 of, the Welfare and Institutions Code, relating to public social services, and making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 7480 of the Government Code is amended to read:

7480. Nothing in this chapter prohibits any of the following:

(a) The dissemination of any financial information which is not identified with, or identifiable as being derived from, the financial records of a particular customer.

(b) When any police or sheriff's department or district attorney in this state certifies to a bank, credit union, or savings and loan association in writing that a crime report has been filed which involves the alleged fraudulent use of drafts, checks or other orders drawn upon any bank, credit union, or savings and loan association in this state, such police or sheriff's department or district attorney may request a bank, credit union, or savings and loan association to furnish, and a bank, credit union, or savings and loan association shall supply, a statement setting forth the following information with respect to a customer account specified by the police or sheriff's department or district attorney for a period 30 days prior to and up to 30 days following the date of occurrence of the alleged illegal act involving the account:

(1) The number of items dishonored;

(2) The number of items paid which created overdrafts;

(3) The dollar volume of such dishonored items and items paid which created overdrafts and a statement explaining any credit arrangement between the bank, credit union, or savings and loan association and customer to pay overdrafts;

(4) The dates and amounts of deposits and debits and the account balance on such dates;

(5) A copy of the signature and any addresses appearing on a customer's signature card; and

(6) The date the account opened and, if applicable, the date the account closed.

(c) The Attorney General, the Franchise Tax Board, the State Board of Equalization, the Employment Development Department, the Controller or an inheritance tax referee when administering the

Inheritance Tax Law (Part 8 (commencing with Section 13301), Division 2, Revenue and Taxation Code), or a police or sheriff's department or district attorney or a county welfare department when investigating welfare fraud from requesting of an office or branch of a financial institution, and the office or branch from responding to such a request, as to whether a person has an account or accounts at that office or branch and, if so, any identifying numbers of such account or accounts.

No additional information beyond that specified in this section shall be released to a county welfare department without either the account holder's written consent or a judicial writ, search warrant, subpoena, or other judicial order.

(d) The examination by, or disclosure to, any supervisory agency of financial records which relate solely to the exercise of its supervisory function. The scope of an agency's supervisory function shall be determined by reference to statutes which grant authority to examine, audit, or require reports of financial records or financial institutions as follows:

(1) With respect to the Superintendent of Banks by reference to Division 1 (commencing with Section 99), Division 15 (commencing with Section 31000), and Division 16 (commencing with Section 33000) of the Financial Code.

(2) With respect to the Department of Savings and Loan by reference to Division 2 (commencing with Section 5000) of the Financial Code.

(3) With respect to the Corporations Commissioner by reference to Division 5 (commencing with Section 14000) and Division 7 (commencing with Section 18000) of the Financial Code.

(4) With respect to the Controller by reference to Title 10 (commencing with Section 1300) of Part 3 of the Code of Civil Procedure.

(5) With respect to the Administrator of Local Agency Security by reference to Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

(e) The disclosure to the Franchise Tax Board of (1) the amount of any security interest a financial institution has in a specified asset of a customer or (2) financial records in connection with the filing or audit of a tax return or tax information return required to be filed by the financial institution pursuant to Part 10, 11, or 18 of the Revenue and Taxation Code.

(f) The disclosure to the State Board of Equalization of any of the following:

(1) The information required by Sections 6702, 8954, 30313, 32383, 38502, and 40153 of the Revenue and Taxation Code.

(2) The financial records in connection with the filing or audit of a tax return required to be filed by the financial institution pursuant to Parts 1, 2, 3, 13, 14, and 17 of the Revenue and Taxation Code.

(3) The amount of any security interest a financial institution has in a specified asset of a customer, if the inquiry is directed to the

branch or office where the interest is held.

(g) The disclosure to the Controller of the information required by Section 7853 of the Revenue and Taxation Code.

(h) The disclosure to the Employment Development Department of the amount of any security interest a financial institution has in a specified asset of a customer, if the inquiry is directed to the branch or office where the interest is held.

SEC 1.5. Section 396 of the Penal Code is repealed.

SEC. 2. Chapter 9 (commencing with Section 10980) is added to Part 2 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 9. PENALTIES

10980. (a) Any person who, willfully and knowingly, with the intent to deceive, makes a false statement or representation or knowingly fails to disclose a material fact in order to obtain aid under the provisions of this division or who, knowing he or she is not entitled thereto, attempts to obtain aid or to continue to receive aid to which he or she is not entitled, or to receive a larger amount than that to which he or she is legally entitled, is guilty of a misdemeanor, punishable by imprisonment in the county jail for a period of not more than six months, a fine of not more than five hundred dollars ($500), or by both such imprisonment and fine.

(b) Any person who knowingly makes more than one application for aid under the provisions of this division with the intent of establishing multiple entitlements for any person for the same period or who makes an application for such aid for a fictitious or nonexistent person or by claiming a false identity for any person is guilty of a felony, punishable by imprisonment in the state prison for a period of 16 months, two years, or three years, a fine of not more than five thousand dollars ($5,000), or by both such imprisonment and fine, or by imprisonment in the county jail for a period of not more than one year, or a fine of not more than one thousand dollars ($1,000), or by both such imprisonment and fine.

(c) Whenever any person has, by means of false statement or representation or by impersonation or other fraudulent device, obtained or retained aid under the provisions of this division for himself or herself or for a child not in fact entitled thereto, the person obtaining such aid shall be punished as follows:

(1) If the total amount of such aid obtained or retained is four hundred dollars ($400) or less, by imprisonment in the county jail for a period of not more than six months, a fine of not more than five hundred dollars ($500), or by both such imprisonment and fine.

(2) If the total amount of such aid obtained or retained is more than four hundred dollars ($400), by imprisonment in the state prison for a period of 16 months, two years, or three years, a fine of not more than five thousand dollars ($5,000), or by both such imprisonment and fine; or by imprisonment in the county jail for a period of not more than one year, or a fine of not more than one

thousand dollars ($1,000), or by both such imprisonment and fine.

(d) Any person who knowingly uses, transfers, acquires, or possesses blank authorizations to participate in the federal Food Stamp Program in any manner not authorized by Chapter 10 (commencing with Section 18900) of Part 6 with the intent to defraud is guilty of a felony, punishable by imprisonment in the state prison for a period of 16 months, two years, or three years, a fine of not more than five thousand dollars ($5,000), or by both such imprisonment and fine.

(e) Any person who counterfeits or alters or knowingly uses, transfers, acquires, or possesses counterfeited or altered authorizations to participate in the federal Food Stamp Program or food stamps in any manner not authorized by the Food Stamp Act of 1964 (Public Law 88-525 and all amendments made thereto) or the federal regulations pursuant to the act is guilty of forgery.

(f) Any person who fraudulently appropriates food stamps or authorizations to participate in the federal Food Stamp Program with which he or she has been entrusted pursuant to his or her duties as a public employee is guilty of embezzlement of public funds.

SEC. 3. Section 11462.5 is added to the Welfare and Institutions Code, to read:

11462.5. (a) The Legislature finds and declares that certain extraordinary conditions in local foster care group home placement needs exist in some counties. It is the intent of the Legislature in enacting this section to provide those counties with a method to pursue local foster care group home facilities for placement of children with services and care appropriate to their needs.

(b) During the 1984–85 fiscal year, the department shall develop a plan whereby AFDC-FC payment rates for existing AFDC-FC providers under this chapter may receive a new rate for services provided in accordance with the intent expressed in subdivision (a).

(c) The department shall implement this plan for San Diego County for a one-year pilot project during the 1985–86 fiscal year.

(d) The department shall subsequently recommend whether such a procedure should be implemented statewide.

The setting of these rates for existing AFDC-FC providers may commence after all of the following procedures have been followed:

(1) A county may request the department to consider and approve the county's declaration that a deficiency of care exists for any of the following types of children; emotionally disturbed latency age children, psychiatrically diagnosed children or adolescents, psychiatrically diagnosed adolescent boys, emotionally disturbed adolescent boys, or psychiatrically diagnosed adolescent girls. As used in this section, a deficiency exists when a county has a need for group homes for one or more of the types of children referred to in this paragraph, where the number of children exceeds the number of available beds in the appropriate level of care by 30 percent or more within the county. The deficiency shall equate to six beds or more and shall not be due to placement by other counties in the

requesting county's facilities. In support of this request, the county shall submit to the department all of the following information:

(A) Identification and definition of levels of care available for children who are alleged or adjudicated under Sections 300 and 602 and who are placed in group homes funded by AFDC-FC.

(B) The number of beds available for one or more of the types of children referred to in paragraph (1) in the county.

(C) The locations of facilities serving children one or more of the types of children referred to in paragraph (1) in the county.

(2) Upon receipt of the county's request, the department shall determine if insufficient placement facilities exist in the county. This determination shall be completed no later than 60 days after receipt of the request.

(3) Upon a finding that a deficiency of care exists, the county shall solicit requests from existing providers who meet the criteria in subdivision (e), and shall:

(A) Review all requests.

(B) Choose one or more providers whose program meets the county's identified deficiency.

(C) Sponsor the provider chosen in subparagraph (B) by verifying information and forwarding its application to the department.

(D) Provide information regarding the type of care and the average rate paid by the county for the same level of care provided outside the county but within California.

(E) The county shall sponsor only a sufficient number of providers to meet the number of beds for which a deficiency has been found.

(e) If a county has been found to have a deficiency pursuant to subdivision (b), a licensed group home may respond to the county's solicitation, if it meets all of the following criteria:

(1) The facility is capable and willing to serve exclusively for the county one or more of the types of children referred to in paragraph (3) for which a deficiency has been found.

(2) The facility will be located within the county.

(f) Notwithstanding Section 11462, in setting a rate pursuant to this section, the department shall determine a rate which provides for the necessary level of care, subject to all of the following limitations:

(1) Subject to paragraph (2), ratesetting tests such as reasonableness and allowability shall be applied to rate requests under this section, pursuant to subdivisions (a) and (b) of Section 11462.

(2) The new rate approved by the department shall not exceed the average rate paid by the county per child for the same level of care provided in other counties within the state.

(3) Group homes granted a new rate under this section shall be subject to departmental audits pursuant to subdivision (e) of Section 11462.

(g) In order to implement this section, there is hereby appropriated to the department the sum of thirty-five thousand dollars ($35,000) from the General Fund and the sum of thirty-five thousand dollars ($35,000) from the Social Welfare Federal Fund, after transfer from the Federal Trust Fund, to augment the department's support budget.

(h) This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute chaptered prior to that date deletes or extends that date.

SEC. 3.5. Section 11481.5 is added to the Welfare and Institutions Code, to read:

11481.5. The department shall evaluate the effectiveness of a 24-hour welfare fraud hotline pilot project, to assess greater public involvement and assistance in welfare fraud detection.

SEC. 4. Section 11482 of the Welfare and Institutions Code is amended to read:

11482. Any person other than a needy child, who willfully and knowingly, with the intent to deceive, makes a false statement or representation or knowingly fails to disclose a material fact to obtain aid, or who, knowing he or she is not entitled thereto, attempts to obtain aid or to continue to receive aid to which he or she is not entitled, or a larger amount than that to which he or she is legally entitled, is guilty of a misdemeanor, except as specified in Section 11482.5 and shall be subject to prosecution under the provisions of Chapter 9 (commencing with Section 10980) of Part 2.

SEC. 5. Section 11482.5 of the Welfare and Institutions Code is amended to read:

11482.5. Any person who knowingly makes more than one application for aid with the intent of establishing multiple entitlements for any person for the same period, or who makes an application for aid by claiming a false identity for any person or by making an application for a fictitious or nonexistent person, is guilty of a felony and shall be subject to prosecution under the provisions of Chapter 9 (commencing with Section 10980) of Part 2.

SEC. 6. Section 11483 of the Welfare and Institutions Code is amended to read:

11483. Except as specified in Section 11483.5, whenever any person has, by means of false statement or representation or by impersonation or other fraudulent device, obtained aid for a child not in fact entitled thereto, the person obtaining such aid shall be subject to prosecution under the provisions of Chapter 9 (commencing with Section 10980) of Part 2.

When the allegation is limited to failure to report not more than two thousand dollars ($2,000) of income or resources, or the failure to report the presence of an additional person or persons in the household, all actions necessary to secure restitution shall be brought against persons in violation of Section 10980. The action for restitution may be satisfied by sending a registered letter requesting restitution to the last address at which the person was receiving

public assistance.

SEC. 7. Section 11483.5 of the Welfare and Institutions Code is amended to read:

11483.5. Any person who obtains more than one aid payment for any person as a result of knowingly making more than one application for aid with the intent of establishing multiple entitlements for that person during the same period, or who obtains aid for any person by making an application claiming a false identity or by making an application for a fictitious or nonexistent person, is guilty of a felony, and shall be subject to prosecution under the provisions of Chapter 9 (commencing with Section 10980) of Part 2.

SEC. 8. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 9. This act shall only become effective if AB 1557 is enacted during the 1983–84 Regular Session.

CHAPTER 1449

An act to amend and renumber Section 1170.8 of, and to add Section 1170.75 to, the Penal Code, relating to crimes.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 1170.75 is added to the Penal Code, to read:

1170.75. Except in a case in which the person has been convicted of an offense subject to Section 1170.8, the fact that a person committed a felony or attempted to commit a felony because of the victim's race, color, religion, nationality, or country of origin, shall be considered a circumstance in aggravation of the crime in imposing a term under subdivision (b) of Section 1170.

SEC. 2. Section 1170.8 of the Penal Code, as added by Chapter 1100 of the Statutes of 1982, is amended and renumbered to read:

1170.85. Upon conviction of any felony assault or battery offense, it shall be considered a circumstance in aggravation of the crime in imposing a term under subdivision (b) of Section 1170 if the offense was committed to prevent or dissuade a person who is or may become a witness from attending upon or testifying at any trial, proceeding, or inquiry authorized by law, or if the offense was committed because the person provided assistance or information to

a law enforcement officer, or to a public prosecutor in a criminal or juvenile court proceeding.

CHAPTER 1450

An act to amend Section 6369.5 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 6369.5 of the Revenue and Taxation Code is amended to read:

6369.5. There are exempted from the taxes imposed by this part the gross receipts from the sale, and the storage, use, or other consumption, in this state of any medical oxygen delivery system, including, but not limited to, liquid oxygen containers, high pressure cylinders, and regulators, when sold, leased, or rented to an individual for the personal use of that individual as directed by a physician.

SEC. 2. The sum of eighteen thousand seven hundred fifty dollars ($18,750) is hereby appropriated to the Controller from the General Fund to make the payments to counties and cities required by Section 2230 of the Revenue and Taxation Code to reimburse them for revenue losses caused by this act in the initial fiscal year in which this act is effective. The appropriation made by this section shall be allocated in the manner specified in Section 2230.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1451

An act making an appropriation to pay the claims of the Secretary of the State Board of Control, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. The sum of seven hundred thirteen thousand five hundred ninety-nine dollars and seventy four cents ($713,599.74) is hereby appropriated from the funds indicated below to the State

Board of Control to pay the claims of the Secretary of the State Board of Control:

GENERAL FUND	$282,028.44
BOARD OF MEDICAL QUALITY ASSURANCE CONTINGENT FUND	100.00
CALIFORNIA HEALTH FACILITIES COMMISSION FUND	359.35
PUBLIC EMPLOYEES' RETIREMENT FUND	500.00
REAL ESTATE FUND	120.00
STATE TEACHERS' RETIREMENT FUND	98.98
TRANSPORTATION FUND, MOTOR VEHICLE ACCOUNT	966.64
TRANSPORTATION FUND, MOTOR VEHICLE ACCOUNT (CHP)	2,397.84
TRANSPORTATION FUND, MOTOR VEHICLE ACCOUNT (DMV)	44.88
TRANSPORTATION FUND, MOTOR VEHICLE LICENSE FEE ACCOUNT	1,443.00
TRANSPORTATION FUND, STATE HIGHWAY ACCOUNT	550.91
TRANSPORTATION TAX FUND, MOTOR VEHICLE FUEL ACCOUNT	35,553.42
UNEMPLOYMENT COMPENSATION DISABILITY FUND	328.95
WATER RESOURCES REVOLVING FUND	30,970.28
ITEM 001-000-114-000-00-00, BUDGET ACT OF 1981	3,182.00
ITEM 0160-001-001(a), BUDGET ACT OF 1984	350.00
ITEM 0170-001-001, BUDGET ACT OF 1984	10.00
ITEM 0250-001-001(g), BUDGET ACT OF 1984	258.00
ITEM 0690-001-001(b), BUDGET ACT OF 1984	34.98
ITEM 0820-001-001(a), BUDGET ACT OF 1984	231.73
ITEM 0840-001-001(a), BUDGET ACT OF 1984	836.73
ITEM 0860-001-001(a), BUDGET ACT OF 1984	14,735.61
ITEM 0950-001-001(b), BUDGET ACT OF 1984	1,077.42
ITEM 1730-001-001(a), BUDGET ACT OF 1984	1,583.02
ITEM 1760-001-666(a), BUDGET ACT OF 1984	1,607.59
ITEM 1880-001-001(d), BUDGET ACT OF 1984	1,507.83
ITEM 1970-011-001(a), BUDGET ACT OF 1984	16,059.70
ITEM 2100-001-001(c), BUDGET ACT OF 1984	167.28
ITEM 2180-001-001(b), BUDGET ACT OF 1984	150.00
ITEM 2240-001-001(d), BUDGET ACT OF 1984	200.00
ITEM 2290-001-217(d), BUDGET ACT OF 1984	386.60
ITEM 2660-001-042(a), BUDGET ACT OF 1984	13,884.54
ITEM 2720-001-044(a), BUDGET ACT OF 1984	19,327.76
ITEM 2740-001-044(e), BUDGET ACT OF 1984	1,905.45
ITEM 3340-001-001(b), BUDGET ACT OF 1984	317.89
ITEM 3540-001-001(c), BUDGET ACT OF 1984	1,512.41

ITEM 3600-001-200(a), BUDGET ACT OF 1984	206.88
ITEM 3600-001-200(b), BUDGET ACT OF 1984	856.94
ITEM 3790-001-001(a), BUDGET ACT OF 1984	703.07
ITEM 3790-001-001(b), BUDGET ACT OF 1984	224.00
ITEM 3820-001-001(a), BUDGET ACT OF 1984	89.08
ITEM 3940-001-001(c), BUDGET ACT OF 1984	5,503.59
ITEM 4100-001-890(a), BUDGET ACT OF 1984	112.20
ITEM 4100-001-890(b), BUDGET ACT OF 1984	1,168.08
ITEM 4200-001-001(c), BUDGET ACT OF 1984	93.16
ITEM 4260-001-001(a), BUDGET ACT OF 1984	3,080.44
ITEM 4260-001-001(b), BUDGET ACT OF 1984	6,278.74
ITEM 4300-111-001(a), BUDGET ACT OF 1984	27,235.64
ITEM 4440-011-011(c), BUDGET ACT OF 1984	6,048.49
ITEM 5100-001-870(a), BUDGET ACT OF 1984	3,712.07
ITEM 5160-001-001(d), BUDGET ACT OF 1984	257.85
ITEM 5180-001-001(f), BUDGET ACT OF 1984	3,730.67
ITEM 5190-001-142(a), BUDGET ACT OF 1984	1,490.00
ITEM 5240-001-001(a), BUDGET ACT OF 1984	12,401.72
ITEM 5240-001-001(b), BUDGET ACT OF 1984	72.50
ITEM 5240-001-001(c), BUDGET ACT OF 1984	3,332.04
ITEM 5460-001-001(d), BUDGET ACT OF 1984	14,867.45
ITEM 6100-001-001(d), BUDGET ACT OF 1984	2,287.38
ITEM 6100-161-001, BUDGET ACT OF 1984	153,471.00
ITEM 6420-001-001(d), BUDGET ACT OF 1984	986.29
ITEM 6610-001-001(a), BUDGET ACT OF 1984	2,801.88
ITEM 6610-001-001(e), BUDGET ACT OF 1984	16,200.56
ITEM 8120-001-268(b), BUDGET ACT OF 1984	588.90
ITEM 8290-001-001(b), BUDGET ACT OF 1984	2,949.54
ITEM 8300-001-001(c), BUDGET ACT OF 1984	69.95
ITEM 8350-001-001(i), BUDGET ACT OF 1984	6,747.06
ITEM 8560-001-001(a), BUDGET ACT OF 1984	469.12
ITEM 8570-001-001(h), BUDGET ACT OF 1984	420.22
ITEM 8660-001-412(a), BUDGET ACT OF 1984	354.00
TOTAL	$713,599.74

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to settle claims against the state and to end a hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 1452

An act to amend Section 11019.5 of the Government Code, to amend Sections 4700.1 and 4700.2 of the Penal Code, and to repeal Section 2 of Chapter 1671 of the Statutes of 1971, relating to costs of trial, and making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 11019.5 of the Government Code is amended to read:

11019.5. (a) Notwithstanding any other provision of law, but to the extent consistent with applicable federal law or regulation, any state department specified in subdivision (b), after receiving a request by a board of supervisors of an affected county which has a population of 150,000 or less as of January 1, 1983, and upon determining that advance payment is essential to the effective implementation of a particular program, and further to the extent that funds are available, and not more frequently than once each month, may advance to the county an amount not to exceed one-twelfth of the annual allocations, subventions, or reimbursements required for the delivery of services by a county.

(b) This section applies to the Department of Corrections, the Department of Health Services, and the State Department of Mental Health.

(c) The director of each department specified in subdivision (b) shall promulgate regulations and a plan to establish control procedures to define the scope of operational information required from a county in order to guarantee advance payments pursuant to this section. No county may receive an advance payment unless the county has complied with the provisions of the department's plan and regulations. Each department plan shall be approved by the Department of Finance prior to its implementation.

(d) Claim schedules for advance payments shall be presented to the appropriate department in the manner prescribed by the department. Payment of claims shall be made within 60 days after a claim is received by the department.

(e) Each department specified in subdivision (b) shall review periodically and adjust advances to actual expenditures for the claim period. Additionally, each department shall take into consideration the timing of the implementation of new programs in the computation of advances. The authority contained in this chapter shall not supersede or limit any other provision of law authorizing the state to conduct required audits of claims transactions.

(f) A county, upon determining that an advance payment is essential for the effective implementation of a particular program,

and to the extent funds are available, and not more frequently than once each month, may advance to other affected local public agencies located within its jurisdiction (i.e., school districts, special districts, cities, etc.) an amount not to exceed one-twelfth of the annual allocations, reimbursements, or subventions required for the delivery of services pursuant to related state and federal laws.

SEC. 2. Section 4700.1 of the Penal Code is amended to read:

4700.1. For any trial or hearing referred to in Section 4700, the sheriff of the county where such trial or hearing is had and the person in charge of the prison may agree that the county shall transport prisoners in a state prison to and from such prison. Upon such agreement, the county, and not the Department of Corrections, shall perform the transportation referred to in this section.

SEC. 3. Section 4700.2 of the Penal Code is amended to read:

4700.2. Whenever a trial is had in which a crime committed in furtherance of or in connection with a violation of Section 4530 of the Penal Code is charged, or whenever a trial is had for conspiracy in a case where one or more objectives of the conspiracy is an escape from the custody of the Department of Corrections, the county or counties in which the pretrial proceedings and trial are held shall prepare a statement of the costs incurred in connection with the trial. The statement of costs shall be approved by the presiding judge of the superior court and shall include all costs incurred by the county including, but not limited to, salaries and expenses incurred by the district attorney in investigation and prosecution, by the sheriff in investigation and custody, by the public defender or court-appointed attorney or attorneys in investigation and defense, witness fees and expenses, reporter fees, transcription costs, necessary courtroom security reasonably required to protect the court and participants, and other direct trial costs. Trial shall be deemed to include all pretrial hearings and post-conviction proceedings, if any.

The statement of costs shall be sent to the Controller who shall examine and audit it for the purpose of determining whether it complies with the provisions of this section. The Controller shall cause the amount of such costs as he or she determines comply with this section to be paid to the county out of appropriate funds. If sufficient funds are not available, the Controller shall request the Director of Finance to include any amounts necessary to satisfy the claims in a request for a deficiency appropriation. Any crime committed by an escaped prisoner within 10 days after the escape and within 100 miles of the facility from which the escape occurred shall be presumed to have been a crime committed in furtherance of escape for purposes of this section.

SEC. 4. Section 2 of Chapter 1671 of the Statutes of 1971 is repealed.

SEC. 5. It is the intent of the Legislature that the amendment to Section 4700.2 of the Penal Code made by Section 3 of this act be given effect with respect to any case to which it would apply in which

a final judgment was not entered prior to January 1, 1984.

SEC. 6. The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the General Fund to the Department of Corrections for expenditure in the 1984–85 fiscal year in augmentation of, and for the purpose of paying claims filed pursuant to, Sections 4700.1 and 4700.2 of the Penal Code as provided in Item 5240-101-001 of the Budget Act of 1984.

CHAPTER 1453

An act to amend Sections 58501 and 58502 of, and to add Sections 58503.1, 58503.2, 58503.3, 58503.4, and 58509 to, the Food and Agricultural Code, relating to food, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. This act shall be known and may be cited as the California Food Bank Act of 1984.

SEC. 2. (a) The Legislature finds and declares that there is a serious problem of hunger affecting tens of thousands of individuals and families in communities throughout California.

(b) The Legislature further finds and declares that in order to alleviate this condition it is necessary to establish cost-effective methods of food assistance which complement and supplement current public and private efforts to address hunger and nutritional needs.

(c) The Legislature further finds that the agricultural abundance of this state and nation continually results in surplus food commodities which can be utilized to address unmet hunger and nutritional needs, and that suitably structured nonprofit food banks provide an efficient and reliable method for distributing the surplus food commodities in order to reduce hunger and nutritional needs.

(d) Accordingly, the Legislature declares that the California Food Bank Act of 1984 has been enacted to facilitate the efficient distribution of surplus food products through nonprofit food banks in order to reduce unmet hunger and nutritional needs in the state.

SEC. 3. Section 58501 of the Food and Agricultural Code is amended to read:

58501. For purposes of this chapter:

(a) "Agricultural product" means any fowl, animal, vegetable, or other stuff, product, or article which is customary food, or which is proper for food for human beings.

(b) "Food bank" means a surplus food collection and distribution

system operated and established to assist in bringing donated agricultural products to nonprofit charitable organizations and individuals for the purpose of reducing hunger and nutritional needs.

(c) "Nonprofit charitable organization" means any organization which was organized and is operating for charitable purposes and meets the requirements set forth in Section 214 of the Revenue and Taxation Code.

SEC. 4. Section 58502 of the Food and Agricultural Code is amended to read:

58502. (a) Any person engaged in the business of processing, distributing, or selling any agricultural product may donate, free of charge, any product which is in a condition that it may be used as food for human beings, to a nonprofit charitable organization within the state.

(b) To assist in accomplishing the purposes of this section, the director may divert agricultural products to organizations operating pursuant to this chapter.

SEC. 5. Section 58509 is added to the Food and Agricultural Code, to read:

58509. (a) The Secretary of the State and Consumer Services Agency shall review the federal Temporary Emergency Food Assistance Program and submit a report on or before March 1, 1985, to the Legislature regarding recommendations for the operation and administration of this program in the state. In performing this review, the secretary shall, at a minimum, consult with the departments of the Health and Welfare Agency, such as the Department of Aging and the Department of Social Services, and shall also consult with the Departments of Education, General Services, and Food and Agriculture. In addition, the secretary shall consult with four food bank representatives, two from the northern portion of the state, all of whom have been active members of a nationwide network of food banks for a minimum of two years immediately prior to appointment, and two from the southern portion of the state, all of whom have been active members of a nationwide network of food banks for a minimum of two years immediately prior to appointment, and two food industry representatives, one wholesaler and one manufacturer, all of whom shall be selected by the Governor and referred to as the Food Bank Advisory Committee.

(b) The committee shall begin deliberations as soon as practicable following the effective date of this section.

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

(d) For purposes of the report, the committee shall do all of the following:

(1) Provide information to the State and Consumer Services Agency regarding food bank programs.

(2) Review procedures that will assure that storage,

transportation, and distribution activities conducted by the state are efficiently carried out and are responsive to the needs of local food banks and community organizations involved in food distribution.

(3) Review procedures that will assure maximum access for food banks and community organizations involved in food distribution to all available federal surplus commodities and to all potential private contributions of food commodities available for distribution to the needy.

(4) Review procedures that will assure that necessary technical assistance is available to facilitate the creation of food banks in areas of the state in which they are needed and to facilitate food banks and community organizations to obtain and effectively utilize surplus agricultural commodities.

(5) Review procedures that will minimize the requirements imposed on eligible recipient agencies insofar as practicable while also complying with Public Law 98-8 and Public Law 98-92.

(e) In addition to assisting in preparation of the report, the committee shall do all of the following:

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

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

SEC. 6. Section 58503.1 is added to the Food and Agricultural Code, to read:

58503.1. In order to qualify as a food bank, an organization shall meet all of the following minimum standards:

(a) It shall have access to storage facilities and refrigeration equipment for the purpose of collecting, receiving, handling, storing, and distributing donated agricultural products.

(b) It shall be incorporated as a nonprofit tax exempt organization and be eligible as a charitable organization under paragraph (3) of subsection (c) of Section 501 of Title 11 of the United States Code or shall be affiliated with such an organization.

(c) It shall maintain records for the proper control of inventory.

(d) It shall demonstrate the availability of adequate liability insurance to cover the activities conducted pursuant to this chapter.

(e) It shall show local support through funding sources, letters of endorsement, and a board of directors reflective of the community and population to be served.

SEC. 7. Section 58503.2 is added to the Food and Agricultural Code, to read:

58503.2. To assist in accomplishing the purposes of this chapter and to maximize use of state surplus equipment, the Director of General Services may assist a food bank by locating and providing available state surplus buildings or equipment necessary for the operation of a food bank.

SEC. 8. Section 58503.3 is added to the Food and Agricultural Code, to read:

58503.3. Nothing in this chapter restricts or limits the operation

of any other nonprofit organizations which are engaged in the distribution of agricultural products to nonprofit charitable organizations.

SEC. 9. Section 58503.4 is added to the Food and Agricultural Code, to read:

58503.4. Programs operated in accordance with this chapter shall complement and not in any way lessen assistance to families and individuals pursuant to the Food Stamp Act of 1977 (Chapter 51 (commencing with Section 2011)) of Title 7 of the United States Code.

SEC. 10. The sum of twenty-five thousand dollars ($25,000) is hereby appropriated to the State and Consumer Services Agency to cover the costs incurred by the agency in making per diem payments pursuant to Section 58503 of the Government Code.

SEC. 11. Of the funds appropriated pursuant to Item 6100-001-890 of Chapter 258 of the Statutes of 1984, an amount, as determined by the Department of Finance, may be allocated for the administrative costs incurred by the State Department of Education in the operation of the federal Temporary Emergency Food Assistance Program conducted pursuant to Public Law 98-92.

SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Due to the urgency of meeting hunger and nutritional needs through effective utilization of both surplus food commodities and federal funds which are available for their storage and distribution, it is necessary that this act take effect immediately.

CHAPTER 1454

An act to add Section 22816.3 to the Government Code, relating to health benefits.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 22816.3 is added to the Government Code, to read:

22816.3. Any judge who retired under Chapter 11 (commencing with Section 75000) of Title 8 prior to January 1, 1983, and who was on the effective date of his or her retirement enrolled in a health benefits plan under this part, shall be entitled to have his or her coverage and the coverage of any family members continued upon assuming payment of the contributions otherwise required of the employer on account of his or her enrollment during the period he

or she is not yet receiving his or her retirement allowance, provided that application for this health benefits coverage is made prior to July 1, 1985. Any such eligible judge who was on deferred retirement status and who is receiving a retirement allowance may apply for this health benefits coverage prior to July 1, 1985, and the state shall pay the employer contribution for his or her coverage, except if the judge retired from a municipal court.

CHAPTER 1455

An act to amend Sections 48645 and 48645.1 of the Education Code, to add Section 3364.7 to the Labor Code, and to amend Section 889 of, and to add and repeal Article 24.5 (commencing with Section 894) of Chapter 2 of Part 1 of Division 2, of the Welfare and Institutions Code, relating to juveniles, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. The Legislature finds and declares that, currently, many counties lack short-term intensive residential programs for minors who are not yet in need of commitment to the Youth Authority. This act is intended to provide a needed local sentencing alternative in order to provide certain minors, primarily 16 and 17 year olds, who are awaiting out-of-home placement, with the educational programs they need to become law-abiding, productive citizens. This act constitutes a partnership between the state and participating counties based on matching funds and resources which will provide needed juvenile facilities staffed by county employees. Counties may contract with the private sector for needed program services. It is the intent of the Legislature that these programs emphasize screening for visual and other learning disabilities, basic education and job readiness, community involvement, participation of victims, volunteers, and private industry, accountability of young offenders for their crimes, and restitution.

SEC. 2. Section 48645 of the Education Code is amended to read:

48645. The purpose of this article is to provide for the administration and operation of public schools in juvenile halls, juvenile homes, day centers, juvenile ranches, juvenile camps, or regional youth educational facilities established pursuant to Article 14 (commencing with Section 850), Article 15 (commencing with Section 880), and Article 24.5 (commencing with Section 894) of Chapter 2 of Division 2 of the Welfare and Institutions Code or in any group home housing 25 or more children placed pursuant to Sections 362, 727, and 730, of the Welfare and Institutions Code or in any group

home housing 25 or more children and operating one or more additional sites under a central administration for children placed pursuant to Section 362, 727, or 730 of the Welfare and Institutions Code, with acceptable school structures at one or more centrally located sites to serve the single or composite populations, and to provide the juvenile court school pupils therein detained with quality education and training.

Nothing in this section shall be construed as indicating that it is the intent of the Legislature to prevent juvenile court school pupils who are housed in group homes from enrolling in regular public schools, or that it is the intent of the Legislature to transfer the responsibility for any costs associated with the operation of group homes to the counties.

SEC. 3. Section 48645.1 of the Education Code is amended to read:

48645.1. Public schools or classes in any juvenile hall, juvenile home, day center, juvenile ranch, juvenile camp, or regional youth educational facility established in accordance with Article 14 (commencing with Section 850), Article 15 (commencing with Section 880), and Article 24.5 (commencing with Section 894) of Chapter 2 of Division 2 of the Welfare and Institutions Code or in any group home housing 25 or more children and operating one or more additional sites under a central administration, with acceptable school structures at one or more centrally located sites to serve the single or composite populations of juvenile court school pupils detained therein in accordance with the provisions of Sections 362, 727, or 730 of the Welfare and Institutions Code, shall be known as juvenile court schools.

SEC. 4. Section 3364.7 is added to the Labor Code, to read:

3364.7. Notwithstanding Sections 3351 and 3352, a ward of the juvenile court committed to a regional youth educational facility pursuant to Article 24.5 (commencing with Section 894), engaged in rehabilitative work without pay on public property within the jurisdiction of any governmental entity, including the federal government, shall, upon the adoption of a resolution of the board of supervisors declaring that such wards shall be deemed employees of the county for purposes of this division, be entitled to the workers' compensation benefits provided by this division for injury sustained while in the performance of such public work project, provided:

(a) That the ward shall not be entitled to any disability indemnity benefits.

(b) That in determining permanent disability benefits, average weekly earnings shall be taken at the minimum provided therefor in Section 4453.

SEC. 5. Section 889 of the Welfare and Institutions Code is amended to read:

889. The board of education shall provide for the administration and operation of public schools in any juvenile home, hall, day center, ranch, camp, or regional youth educational facility pursuant

to Article 2.5 (commencing with Section 48645) of Chapter 4 of Part 27 of the Education Code.

SEC. 6. Article 24.5 (commencing with Section 894) is added to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, to read:

Article 24.5. Regional Youth Educational Facilities

894. In order to provide a sentencing alternative for the juvenile courts, one or more pilot regional youth educational facilities shall be established as short-term intensive residential programs to which primarily 16- and 17-year-old minor juvenile court wards not committed to the Youth Authority who fit the description in Section 602 may be committed. Participating minors shall be those who are awaiting out-of-home placement in county juvenile halls, educationally behind in school, educable, able to participate in vocational activities, and able to participate in work projects. Each facility shall provide a short-term intensive educational experience, including program elements such as competency-based education services, assessment for learning disabilities including visual perceptual screening and treatment, remedial individual educational plans for diagnosed learning disabilities, electronic and computer education, physical education, vocational and industrial arts and training, job training and experience, character education, victim awareness, and restitution. Wards who complete the short-term intensive program who need continuing services shall be transferred to local facilities for up to 60 days of additional education and training. Following institutional placement, all wards in the program shall receive intensive supervision by a probation officer in their county of residence for a minimum of 120 days. Intensive supervision means a 10 to 15 person caseload per deputy probation officer.

895. (a) From any state moneys made available to it for that purpose, the Youth Authority shall assist counties in the establishment of pilot regional youth educational facilities. Interested counties that agree to provide matching funds or resources, in compliance with standards established by the department, may enter agreements with the Youth Authority to establish these facilities. The facilities shall be operated by participating counties, either solely or under a joint powers agreement. The counties may contract with private agencies to provide job training consultation or other services.

(b) The Youth Authority shall develop selection criteria for participating counties to include, but not be limited to, all of the following factors:

(1) Eligible target population.
(2) Demonstrated ability to administer the program.
(3) Facility capability.
(4) Financial ability to provide matching funds or resources.

(5) Demonstrated need for the program.
(6) Ability to meet regional needs.
(7) Ability to provide specified program elements.

896. (a) The Youth Authority shall establish minimum performance standards for programs of education and training and for qualifications of personnel for all youth educational facilities in the program, including local continuation and intensive supervision components. These standards and qualifications shall be designed to achieve program goals such as an increase in the educational level of participants, better community protection and offender accountability, and preparation of participants to return to the community as responsible and productive members.

(b) The Youth Authority shall conduct an initial inspection and an annual inspection thereafter of each regional youth educational facility. In addition, the Youth Authority may conduct such other inspections as it deems necessary. If the Youth Authority, after inspection, finds that a facility is not in compliance with the standards adopted pursuant to subdivision (a), the Youth Authority shall give notice of its findings to all persons having authority to confine minors in that regional facility. Commencing 60 days thereafter, that regional youth educational facility shall not be used for confinement of any minor until such time as the Youth Authority finds, after reinspection of the facility, that the conditions which rendered the facility unsuitable have been remedied and that the facility is a suitable place for the confinement of minors.

(c) The custodian of each regional youth educational facility shall make such reports as may be required by the Youth Authority to effectuate the purposes of this section.

897. The capacity of each regional youth educational facility shall be established pursuant to Sections 886 and 886.5.

898. The participating counties shall appoint a citizens advisory committee with a membership drawn from law enforcement, judiciary, probation, education, corrections, business, and the general public, whose function is to review the goals, objectives, and programs of each youth educational facility and provide input to the facility.

898.5. The Youth Authority shall evaluate the effectiveness of this article and shall report its findings and recommendations to the Legislature no later than January 1, 1987.

899. This article shall become inoperative on June 30, 1987, and, as of January 1, 1988, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1988, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. The sum of one million dollars ($1,000,000) is hereby appropriated from the General Fund to the Youth Authority to provide matching funds to counties for the establishment of pilot regional youth educational facilities pursuant to Section 895 of the Welfare and Institutions Code. Participating counties shall provide funds or resources of equal value to sums provided by the Youth

Authority under this act.

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

In order to provide urgently needed local sentencing alternatives for the juvenile courts as soon as possible, it is necessary that this act take immediate effect.

CHAPTER 1456

An act to amend Sections 19070, 19073, 19200.5, 19202, 19203, and 19204 of, and to add Sections 19018, 19019, 19020, 19021, 19022, 19059.7, 19164, 19165, 19170, 19175, 19213, and 19214 to, the Business and Professions Code, and to repeal and add Chapter 10.5 (commencing with Section 25910) of Division 15 of the Public Resources Code, relating to insulation standards, and making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 19018 is added to the Business and Professions Code, to read:

19018. "Approved testing laboratory" means any testing facility which is determined by rule and regulation of the bureau to have adequate personnel, facilities, equipment, and expertise to carry out the testing required by this article. Testing of insulation material by the manufacturer in his or her own approved testing laboratory or in an approved independent testing laboratory under contract to the manufacturer may be utilized in the initial certification process and the continued maintenance of certifications.

SEC. 2. Section 19019 is added to the Business and Professions Code, to read:

19019. "Insulation material" means any material placed within or contiguous to a wall, ceiling, or floor of a room or building, or contiguous to the surface of any appliance or its intake or outtake mechanism, for the purpose of reducing heat transfer and thus the electrical or gas energy requirements for heating or cooling the building or operating the appliance, or reducing adverse temperature fluctuations of the building, room, or appliance.

SEC. 3. Section 19020 is added to the Business and Professions Code, to read:

19020. "R-value" means a measure of thermal resistance of material or composite materials. "R-value" is equal to the reciprocal of the conductance of a given material, or

$$\text{R-value} = \frac{1}{\text{conductance of the material}}$$

SEC. 4. Section 19021 is added to the Business and Professions Code, to read:

19021. "Quality assurance program" means a system of procedures employed at the place of manufacture of insulation material designed to assure that insulation material produced at that place continues to meet the standards established by the bureau pursuant to this chapter. The program shall include, without limitation, regular periodic testing by an approved testing laboratory.

SEC. 5. Section 19022 is added to the Business and Professions Code, to read:

19022. "Urea formaldehyde foam insulation" means any insulation product which consists, in whole or in part, of a multicelled foam formed through the combination of a urea formaldehyde resin with a catalyst, and expanded with a gas or gaseous reaction product generated in the formation of the insulation.

SEC. 6. Section 19059.7 is added to the Business and Professions Code, to read:

19059.7. Every insulation manufacturer shall hold an insulation manufacturing license issued by the bureau.

SEC. 7. Section 19070 of the Business and Professions Code is amended to read:

19070. This chapter applies to upholstered furniture, bedding and filling materials, and insulation sold in California regardless of its point of origin.

SEC. 8. Section 19073 of the Business and Professions Code is amended to read:

19073. This chapter does not apply to upholstered furniture, bedding, or insulation manufactured and sold at wholesale in California for delivery outside the borders of this state.

SEC. 9. Section 19164 is added to the Business and Professions Code, to read:

19164. The bureau may, by regulation, establish insulation material standards governing the quality of all insulation material sold or installed within this state, including those properties that affect the safety and thermal performance of insulation material during application and in the use intended. The standards shall specify the initial performance of the insulation material and the performance expected during the design life of the insulation material. Until the bureau has adopted these requlations, the regulations of the Energy Resources Conservation and Development Commission in effect on the effective date of this section relating to those standards shall remain in full force and effect. However, wherever those regulations specify that the commission shall

perform an act, the bureau instead shall perform the act.

Prior to establishing the standards and procedures required by this chapter, the bureau shall conduct at least two public hearings, and shall invite the Energy Resources Conservation and Development Commission, the State Fire Marshal, manufacturers, distributors, and licensed installers of insulation materials, and appropriate members of the public to participate in the hearings. Immediately upon adoption of the standards and procedures, the bureau shall provide a copy of the standards to the Energy Resources Conservation and Development Commission, and the Contractors' State License Board. Within 30 days after receipt of the bureau's standards, the Contractors' State License Board shall notify all state licensed contractors who install insulation of the standards.

Insulation standards adopted by the bureau, pursuant to this section, and by the Energy Resources Conservation and Development Commission, pursuant to Section 25402 of the Public Resources Code, which are building standards as defined in Section 25488.5 shall be submitted to the State Building Standards Commission for approval pursuant to, and are governed by, the State Building Standards Law, Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code. The building standards adopted by the bureau and published in the State Building Standards Code shall comply with, and be enforced as provided in, this section.

SEC. 9.5. Section 19165 is added to the Business and Professions Code, to read:

19165. Insulation material may only be sold or installed in the state which has been certified by the manufacturer to have been tested in accordance with standards adopted by the bureau and which bears a visible bureau approved statement by the manufacturer certifying that the insulation material meets those standards and has been tested and approved by an approved testing laboratory. The testing criteria shall be designed to determine whether insulation materials have met or exceeded minimum established standards. The bureau shall publish and periodically update a directory of certified insulation, including the R-value. The bureau shall charge a fee of fifty dollars ($50) annually, for each certified product listed in the directory up to a maximum of five thousand dollars ($5,000) per manufacturer.

Within 180 days after the date of adoption of those standards, each manufacturer of insulation material shall develop and implement a quality assurance program. Each manufacturer shall keep a record of any testing performed pursuant to the program for a period of three years after it is performed.

SEC. 9.7. Section 19170 is added to the Business and Professions Code, to read:

19170. The annual fee for an insulation manufacturing license shall be fixed by the bureau in an amount not less than one thousand eight hundred fifty dollars ($1,850) but not more than two thousand five hundred dollars ($2,500).

SEC. 10. Section 19175 is added to the Business and Professions Code, to read:

19175. All fees collected by the bureau relating to insulation standards shall be reported to the Controller and paid to the Treasurer and credited to the Bureau of Home Furnishings Funds to be expended only for carrying out provisions of this chapter relating to insulation standards.

SEC. 11. Section 19200.5 of the Business and Professions Code is amended to read:

19200.5. The chief or any inspector may open any articles of upholstered furniture or bedding, including pillows or cushions belonging to or forming a part thereof, or insulation for the purpose of inspecting concealed filling material and may take either the entire article, or samples of filling material or insulation in such quantities as may be necessary for analysis.

SEC. 12. Section 19202 of the Business and Professions Code is amended to read:

19202. The bureau may condemn, withhold from sale, seize, or destroy any upholstered furniture or bedding or any filling material or insulation which is found to be in violation of this chapter.

SEC. 13. Section 19203 of the Business and Professions Code is amended to read:

19203. The tag to be affixed to any article of condemned upholstered furniture or bedding, or any material or insulation, by an inspector shall be a red tag and shall contain such information as may be required by the chief.

SEC. 14. Section 19204 of the Business and Professions Code is amended to read:

19204. Every person who removes, or causes to be removed, any tag or device placed upon any upholstered furniture or bedding or any material or insulation, by an inspector is guilty of a violation of this chapter.

SEC. 15. Section 19213 is added to the Business and Professions Code, to read:

19213. The bureau may monitor compliance with all insulation standards, including those adopted by the Energy Resources Conservation and Development Commission, pursuant to Section 25402 of the Public Resources Code, by conducting periodic inspections with its own personnel, or by requiring inspections conducted by an approved independent third party laboratory, of manufacturers, distributors, or retailers of insulation material sold within the state in order to determine their compliance with this article. The bureau shall annually test all categories of insulation products for which standards have been adopted. The bureau may require those manufacturers, distributors, or retailers that are inspected and found not in compliance with this article, or any regulation implementing it, to pay such reasonable fees as are necessary to cover the costs of inspections and testing necessary to investigate and enforce compliance by those manufacturers,

distributors, and retailers. The range of fees for testing shall be fixed by the bureau in an amount not less than two hundred dollars ($200) and not more than five hundred dollars ($500) for each test. The bureau may also conduct, or contract with approved independent third party laboratories to conduct, independent performance tests of insulation materials sold in the state, in order to determine compliance with its adopted standards.

SEC. 16. Section 19214 is added to the Business and Professions Code, to read:

19214. Any person who violates or proposes to violate any provision of this chapter relating to insulation standards may be enjoined by any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person of any practices which violate this chapter, or which may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of any practice which violates any provision of this chapter.

Actions for injunction under this section may be prosecuted by the Attorney General or any district attorney, county counsel, city attorney, or city prosecutor in this state in the name of the people of the State of California upon his or her own motion or upon the complaint of any board, officer, person, corporation, association, or by any person acting for the interests of itself, its members, or the general public.

(a) A person who violates any provision of this chapter shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney, county counsel, city attorney, or city prosecutor in any court of competent jurisdiction. The unit for a separate and distinct offense regarding insulation in violation of this chapter is each and every bag, bale, package, roll, or other container sold, offered for sale, or possessed with intent to sell or install contrary to the provisions of this chapter.

(b) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the Treasurer. If brought by a district attorney or county counsel, the entire amount of penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county and one-half to the city.

(c) If the action is brought at the request of the bureau, the court shall determine the reasonable expenses incurred by the bureau in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (b), the amount of the reasonable expenses incurred by the bureau

shall be paid to the Treasurer.

SEC. 17. Chapter 10.5 (commencing with Section 25910) of Division 15 of the Public Resources Code is repealed.

SEC. 18. Chapter 10.5 (commencing with Section 25910) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 10.5. INSULATION STANDARDS

25910. The commission shall, by regulation adopted no later than July 1, 1978, establish minimum standards for the amount of additional insulation (expressed in terms of R-value) installed in existing buildings. One year after the adoption of those standards, no insulation shall be installed in any existing building by a contractor unless the contractor certifies to the customer in writing that the amount of insulation (expressed in terms of R-value) meets or exceeds the minimum amount established by the standards. The minimum standards may vary for different types of buildings or building occupancies and different climate zones in the state. The minimum standards shall be economically feasible in that the resultant savings in energy procurement costs shall be greater than the cost of the insulation to the customer amortized over the useful life of the insulation.

25911. The State Energy Resources Conservation and Development Commission may adopt regulations pertaining to urea formaldehyde foam insulation materials as are reasonably necessary to protect the public health and safety. These regulations may include, but are not limited to, prohibition of the manufacture, sale, or installation of urea formaldehyde foam insulation, requirements for safety notices to consumers, certification of installers, and specification of installation practices. Regulations adopted pursuant to this section shall be promulgated after public hearings in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Any regulation adopted by the commission to prohibit the sale and installation of urea formaldehyde foam insulation shall be based upon a record of scientific evidence which demonstrates the need for the prohibition in order to protect the public health and safety.

25912. Prior to adopting any regulation which causes a prohibition on the sale and installation of urea formaldehyde foam insulation, the commission shall consult with, and solicit written comments from, all of the following:

(a) Federal and state agencies with appropriate scientific staffs, including, but not limited to, the State Department of Health Services, the National Academy of Sciences, the United States Department of Housing and Urban Development, the United States Department of Energy, and the United States Consumer Product Safety Commission.

(b) Universities and public and private scientific organizations.

SEC. 19. The sum of one hundred thirty-nine thousand dollars

($139,000) is hereby appropriated from the Bureau of Home Furnishings Fund to be used by the Bureau of Home Furnishings to carry out the provisions of this act in fiscal year 1984–85. Funding for future years shall be included in the annual Budget Act.

CHAPTER 1457

An act to add and repeal Section 13846.5 of the Penal Code, relating to crimes, and making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 13846.5 is added to the Penal Code, to read:

13846.5. (a) The Office of Criminal Justice Planning shall conduct three regional neighborhood watch leadership and training conferences. One such conference shall be held in southern California, one shall be held in central California, and one shall be held in northern California. The conferences shall do the following:

(1) Assemble the volunteer citizen leadership in neighborhoods with active neighborhood watch programs to share experiences in crime prevention and to learn new techniques.

(2) Assemble volunteer citizens in neighborhoods that do not presently have neighborhood watch programs but want to start such programs, in order to receive training and learn from experienced neighborhood watch volunteers.

In recruiting volunteer citizens from neighborhoods without existing neighborhood watch programs, the Office of Criminal Justice Planning shall make special efforts in neighborhoods that have the greatest need for a neighborhood watch program.

(b) In planning and implementing these conferences, the Office of Criminal Justice Planning shall work closely and cooperatively with the Department of Justice, local police and sheriffs' departments, and other state and local agencies which contribute to the state's overall crime prevention efforts, including the use of neighborhood watch programs.

(c) This section shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered on or before January 1, 1986, deletes or extends that date.

SEC. 2. The sum of ninety thousand dollars ($90,000) is hereby appropriated from the General Fund to the Office of Criminal Justice Planning for the purposes of conducting the neighborhood watch leadership and training conferences required by this act.

CHAPTER 1458

An act to amend Sections 17024.5, 17052.9, 17063, 23401, and 24443 of, to add Sections 17087 and 17279 to, and to repeal Section 17511 of, the Revenue and Taxation Code, and to repeal Section 13020.5 of the Unemployment Insurance Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 17024.5 of the Revenue and Taxation Code is amended to read:

17024.5. (a) (1) Unless otherwise specifically provided, the term "Internal Revenue Code," for purposes of this part, means Title 26 of the United States Code, including all amendments thereto as enacted on the specified date for the applicable taxable year as follows:

Taxable Year	Specified Date of Internal Revenue Code Sections
(A) For taxable years beginning on or after January 1, 1983, and on or before December 31, 1983	January 15, 1983
(B) For taxable years beginning on or after January 1, 1984	January 1, 1984

(2) Unless otherwise specifically provided, the following shall apply:

(A) Any provision of the Internal Revenue Code which becomes operative on or after the specified date shall also become operative on the same date for purposes of this part.

(B) Any provision of the Internal Revenue Code which becomes inoperative on or after the specified date, shall also become inoperative on the same date for purposes of this part.

(b) Unless otherwise specifically provided, when applying any section of the Internal Revenue Code for purposes of this part, any provision therein relating to any of the following shall not be applicable for purposes of this part:

(1) An electing small business corporation, as defined in Section 1361(b) of the Internal Revenue Code.

(2) Domestic international sales corporations (DISC), as defined in Section 992(a) of the Internal Revenue Code.

(3) A personal holding company, as defined in Section 542 of the Internal Revenue Code.

(4) A foreign personal holding company, as defined in Section 552 of the Internal Revenue Code.

(5) A foreign investment company, as defined in Section 1246(b) of the Internal Revenue Code.

(6) A foreign trust, as defined in Section 679 of the Internal Revenue Code.

(7) Foreign taxes and foreign tax credits.

(8) Section 911 of the Internal Revenue Code, relating to United States citizens living abroad.

(9) A foreign corporation, except that Section 367 of the Internal Revenue Code shall be applicable.

(10) A separate tax on lump-sum distributions imposed by Section 402(e) of the Internal Revenue Code.

(11) Credits and credit carryovers.

(12) Net operating losses, except as provided in Sections 17201.5, 17202.7, and 17276.2.

(13) Nonresident aliens.

(14) "Short-term" and "long-term" capital gain or loss, or the deduction for capital gains allowed by Section 1202 of the Internal Revenue Code (see Section 18162.5 for amounts includable in income for purposes of this part).

(15) Section 1245 of the Internal Revenue Code recovery property.

(16) Recovery property specified in Section 168 of the Internal Revenue Code.

(17) Section 179 of the Internal Revenue Code property.

(18) Deduction for personal exemptions, as provided in Section 151 of the Internal Revenue Code.

(19) The deduction for the two-earner married couples as allowed by Section 221 of the Internal Revenue Code.

(20) The tax on generation-skipping transfers imposed by Section 2601 of the Internal Revenue Code.

(21) The tax, relating to estates, imposed by Section 2001 or 2101 of the Internal Revenue Code.

(c) When applying the Internal Revenue Code for purposes of this part, any reference to regulations prescribed by "the secretary" shall not be applicable if the Franchise Tax Board has adopted and issued regulations. In the absence of regulations issued by the Franchise Tax Board, regulations issued by "the secretary" in effect as of the applicable effective date of the Internal Revenue Code sections referred to in subdivision (a) shall be applicable to the extent that they do not conflict with this part.

(d) Whenever this part allows a taxpayer to make an election, the following rules shall apply:

(1) A proper election filed in accordance with the Internal Revenue Code or regulations issued by "the secretary" shall be deemed to be a proper election for purposes of this part, unless otherwise provided in this part or in regulations issued by the Franchise Tax Board.

(2) A copy of that election shall be furnished to the Franchise Tax Board upon request.

(3) To obtain treatment other than that elected for federal purposes, a separate election shall be filed with the Franchise Tax Board.

(e) Whenever this part allows or requires a taxpayer to file an application or seek consent, the rules set forth in subdivision (d) shall be applicable with respect to any such application or consent.

(f) When applying the Internal Revenue Code for purposes of determining the statute of limitations under this part, any reference to a period of three years shall be modified to read four years for purposes of this part.

(g) Unless otherwise specifically provided, when applying any section of the Internal Revenue Code for purposes of this part, any reference to the "secretary" shall mean the "Franchise Tax Board."

(h) Unless otherwise specifically provided, when applying any section of the Internal Revenue Code for purposes of this part, any reference to "adjusted gross income" (AGI) shall mean the amount computed as adjusted gross income, in accordance with Section 17072, on the California income tax return for the same taxable year.

SEC. 1.1. Section 17024.5 of the Revenue and Taxation Code is amended to read:

17024.5. (a) (1) Unless otherwise specifically provided, the term "Internal Revenue Code," for purposes of this part, means Title 26 of the United States Code, including all amendments thereto as enacted on the specified date for the applicable taxable year as follows:

Taxable Year	Specified Date of Internal Revenue Code Sections
(A) For taxable years beginning on or after January 1, 1983, and on or before December 31, 1983	January 15, 1983
(B) For taxable years beginning on or after January 1, 1984	January 1, 1984

(2) Unless otherwise specifically provided, the following shall apply:

(A) Any provision of the Internal Revenue Code which becomes operative on or after the specified date shall also become operative on the same date for purposes of this part.

(B) Any provision of the Internal Revenue Code which becomes inoperative on or after the specified date, shall also become inoperative on the same date for purposes of this part.

(b) Unless otherwise specifically provided, when applying any section of the Internal Revenue Code for purposes of this part, any provision therein relating to any of the following shall not be applicable for purposes of this part:

(1) An electing small business corporation, as defined in Section 1361(b) of the Internal Revenue Code.

(2) Domestic international sales corporations (DISC), as defined

in Section 992(a) of the Internal Revenue Code.

(3) A personal holding company, as defined in Section 542 of the Internal Revenue Code.

(4) A foreign personal holding company, as defined in Section 552 of the Internal Revenue Code.

(5) A foreign investment company, as defined in Section 1246(b) of the Internal Revenue Code.

(6) A foreign trust, as defined in Section 679 of the Internal Revenue Code.

(7) Foreign taxes and foreign tax credits.

(8) Section 911 of the Internal Revenue Code, relating to United States citizens living abroad.

(9) A foreign corporation, except that Section 367 of the Internal Revenue Code shall be applicable.

(10) A separate tax on lump-sum distributions imposed by Section 402(e) of the Internal Revenue Code.

(11) Credits and credit carryovers.

(12) Nonresident aliens.

(13) "Short-term" and "long-term" capital gain or loss, or the deduction for capital gains allowed by Section 1202 of the Internal Revenue Code (see Section 18162.5 for amounts includable in income for purposes of this part).

(14) Section 1245 of the Internal Revenue Code recovery property.

(15) Recovery property specified in Section 168 of the Internal Revenue Code.

(16) Section 179 of the Internal Revenue Code property.

(17) Deduction for personal exemptions, as provided in Section 151 of the Internal Revenue Code.

(18) The deduction for the two-earner married couples as allowed by Section 221 of the Internal Revenue Code.

(19) The tax on generation-skipping transfers imposed by Section 2601 of the Internal Revenue Code.

(20) The tax, relating to estates, imposed by Section 2001 or 2101 of the Internal Revenue Code.

(c) When applying the Internal Revenue Code for purposes of this part, any reference to regulations prescribed by "the secretary" shall not be applicable if the Franchise Tax Board has adopted and issued regulations. In the absence of regulations issued by the Franchise Tax Board, regulations issued by "the secretary" in effect as of the applicable effective date of the Internal Revenue Code sections referred to in subdivision (a) shall be applicable to the extent that they do not conflict with this part.

(d) Whenever this part allows a taxpayer to make an election, the following rules shall apply:

(1) A proper election filed in accordance with the Internal Revenue Code or regulations issued by "the secretary" shall be deemed to be a proper election for purposes of this part, unless otherwise provided in this part or in regulations issued by the Franchise Tax

Board.

(2) A copy of that election shall be furnished to the Franchise Tax Board upon request.

(3) To obtain treatment other than that elected for federal purposes, a separate election shall be filed with the Franchise Tax Board.

(e) Whenever this part allows or requires a taxpayer to file an application or seek consent, the rules set forth in subdivision (d) shall be applicable with respect to any such application or consent.

(f) When applying the Internal Revenue Code for purposes of determining the statute of limitations under this part, any reference to a period of three years shall be modified to read four years for purposes of this part.

(g) Unless otherwise specifically provided, when applying any section of the Internal Revenue Code for purposes of this part, any reference to the "secretary" shall mean the "Franchise Tax Board."

(h) Unless otherwise specifically provided, when applying any section of the Internal Revenue Code for purposes of this part, any reference to "adjusted gross income" (AGI) shall mean the amount computed as adjusted gross income, in accordance with Section 17072, on the California income tax return for the same taxable year.

SEC. 2. Section 17052.9 of the Revenue and Taxation Code is amended to read:

17052.9. (a) There shall be allowed as a credit against the "net tax" imposed by this part for the taxable year an amount determined under subdivision (b) or (c).

(b) There shall be allowed as a credit an amount determined in accordance with Section 37 of the Internal Revenue Code, except—

(1) The amount of the credit shall be limited to 50 percent of the amount computed under Section 37 of the Internal Revenue Code.

(2) The credit shall not be allowed to any nonresident or part-year resident.

(c) (1) There shall be allowed as a credit an amount equal to 10 percent of the amount received by that individual as retirement income (as defined in paragraph (4) and as limited by paragraphs (5), (6), and (7)).

(2) In the case of a married individual, this subdivision shall apply to the taxable year only if both spouses so elect and no credit shall be allowed to either spouse under subdivision (a).

(3) A credit shall not be allowed under this subdivision, unless all of the following are met:

(A) An individual—

(i) Has not attained age 65 before close of the taxable year, and

(ii) Has income from pensions and annuities under a public retirement system (as defined in subparagraph (A) of paragraph (9)), and

(iii) Was allowed a credit under this section for a taxable year beginning prior to January 1, 1984.

(B) In the case of a married couple, the spouse who is under age 65 meets all of the requirements in subparagraph (A).

(C) The individual is a resident of this state (both spouses, in case of a joint return) for the entire taxable year.

(4) For purposes of this subdivision, the term "retirement income" means—

(A) In the case of an individual who has attained age 65 before the close of the taxable year, income from—

(i) Pensions and annuities (including, in the case of an individual who is, or has been, an employee within the meaning of Section 401(c)(1) of the Internal Revenue Code, distributions by a trust described in Section 401(a) of the Internal Revenue Code, which is exempt from tax under Section 501(a) of the Internal Revenue Code).

(ii) Interest,

(iii) Rents,

(iv) Dividends,

(v) Bonds described in Section 405(b)(1) of the Internal Revenue Code, which are received under a qualified bond purchase plan described in Section 405(a) of the Internal Revenue Code, or in a distribution from a trust described in Section 401(a) of the Internal Revenue Code, which is exempt from tax under Section 501(a) of the Internal Revenue Code, or retirement bonds described in Section 409 of the Internal Revenue Code, and

(vi) An individual retirement account described in Section 408(a) of the Internal Revenue Code, or an individual retirement annuity described in Section 408(b) of the Internal Revenue Code; or

(B) In the case of an individual who has not attained age 65 before the close of the taxable year and who performed the services giving rise to the pension or annuity (or is the spouse of the individual who performed the services), income from pensions and annuities under a public retirement system (as defined in subparagraph (A) of paragraph (9)),

to the extent included in gross income without reference to this subdivision, but only to the extent that income does not represent compensation for personal services rendered during the taxable year.

(5) For purposes of this subdivision, the amount of retirement income shall not exceed five thousand dollars ($5,000) less—

(A) An amount equal to the sum of the amounts received by the individual (or, in the case of a joint return, by either spouse) as a pension or annuity—

(i) Under Title II of the Social Security Act,

(ii) Under the Railroad Retirement Act of 1974, or

(iii) Otherwise excluded from gross income.

No reduction shall be made under this subparagraph for any amount excluded from gross income under Section 72 of the Internal Revenue Code (relating to annuities), Section 101 of the Internal Revenue Code (relating to life insurance proceeds), Section 104 of the Internal Revenue Code (relating to compensation for injuries or

sickness), Section 105 of the Internal Revenue Code (relating to accident and health plans), Section 120 of the Internal Revenue Code (relating to qualified group legal services plan), Section 402 of the Internal Revenue Code (relating to a beneficiary of an employees' trust), Section 403 of the Internal Revenue Code (relating to employee annuities), or Section 405 of the Internal Revenue Code (relating to qualified bond purchase plans).

(B) In the case of any individual who has not attained age 72 before the close of the taxable year—

(i) If that individual has not attained age 62 before the close of the taxable year, any amount of earned income (as defined in subparagraph (B) of paragraph (9) in excess of nine hundred dollars ($900) received by that individual in the taxable year, or

(ii) If that individual has attained age 62 before the close of the taxable year, the sum of one-half the amount of earned income received by that individual in the taxable year in excess of one thousand two hundred dollars ($1,200), but not in excess of one thousand seven hundred dollars ($1,700), and the amount of earned income so received in excess of one thousand seven hundred dollars ($1,700).

(6) In the case of a joint return, paragraph (5) shall be applied by substituting "seven thousand five hundred dollars ($7,500)" for "five thousand dollars ($5,000)." The seven thousand five hundred dollars ($7,500) provided by the preceding sentence shall be divided between the spouses in those amounts as may be agreed on by them, except that not more than five thousand dollars ($5,000) may be assigned to either spouse.

(7) In the case of a married individual filing a separate return, paragraph (5) shall be applied by substituting "three thousand seven hundred fifty dollars ($3,750)" for "five thousand dollars ($5,000)."

(8) In the case of a joint return, this subdivision shall be applied without regard to community property laws.

(9) For purposes of this subdivision—

(A) "Public retirement system" means a pension, annuity, retirement, or similar fund or system established by the United States, a state, a possession of the United States, any political subdivision of any of the foregoing, or the District of Columbia.

(B) "Earned income" has the meaning assigned to that term by Section 911(d)(2) of the Internal Revenue Code, except that such term does not include any amount received as a pension or annuity.

(10) The provisions of this subdivision shall not be applicable to taxable years beginning on or after January 1, 1994.

SEC. 3. Section 17063 of the Revenue and Taxation Code is amended to read:

17063. For purposes of this chapter, the items of tax preference are:

(a) An amount equal to the excess itemized deductions for the taxable year (as determined under Section 17063.2).

(b) With respect to each "Section 1250 property" (as defined in Section 1250(c) of the Internal Revenue Code), the amount by

which the deduction allowable for the taxable year for exhaustion, wear or tear, obsolescence, or amortization exceeds the depreciation deduction which would have been allowable for the taxable year, had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life (determined without regard to Section 167(k) of the Internal Revenue Code) for which the taxpayer has held the property.

(c) With respect to each item of Section 1245 property (as defined in Section 1245(a)(3) of the Internal Revenue Code) which is subject to a lease, the amount by which—

(1) The deduction allowable for the taxable year for depreciation or amortization, exceeds

(2) The deduction which would have been allowable for the taxable year had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life for which the taxpayer has held the property.

(d) With respect to each property (as defined in Sections 17681 to 17690, inclusive), the excess of the deduction for depletion allowable under Section 17681 for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year).

(e) The amount of the tax preference income with respect to capital gains shall be an amount (but not below zero) equal to the difference between (1) the taxpayer's total net capital gains and losses (determined without regard to any capital loss carryover) for the taxable year, and (2) the taxpayer's net capital gains and losses recognized by virtue of Section 18162.5 for the same taxable year.

(f) The amount of net farm loss in excess of fifty thousand dollars ($50,000) which is deducted from nonfarm income. In the case of a husband or wife who files a separate return, the amount specified in the preceding sentence shall be twenty-five thousand dollars ($25,000). This subdivision shall not apply if two-thirds or more of the taxpayer's average gross income from all sources for the taxable year and immediately preceding two years is from farming. Nor shall this subdivision apply if the net farm loss is the result of aquaculture activities. For purposes of this subdivision, "aquaculture" means a form of agriculture as defined in Section 17 of the Fish and Game Code.

(g) The excess of the intangible drilling and development costs described in Section 263(c) of the Internal Revenue Code paid or incurred in connection with oil, gas, and geothermal wells (other than costs incurred in drilling a nonproductive well) allowable under this part for the taxable year over the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in Section 17063.3) had been used with respect to such costs. This subdivision shall be applied separately with respect to:

(1) All oil and gas properties which are not described in paragraph (2), and

(2) All properties which are geothermal deposits (as defined in Section 613(e)(3) of the Internal Revenue Code of 1954).

(h) With respect to each mine or other natural deposit (other than an oil or gas well) of the taxpayer, an amount equal to the excess of—

(1) The amount allowable as a deduction under Section 17689.5 or 17690 (a), over

(2) The amount which would have been allowable if the expenditures had been capitalized and amortized ratably over the 10-year period beginning with the taxable year in which those expenditures were made.

(i) An amount equal to the excess of—

(1) The amount allowable as a deduction under Section 173 or 174(a) of the Internal Revenue Code for the taxable year, over

(2) The amount which would have been allowable for the taxable year if the circulation expenditures described in Section 173 of the Internal Revenue Code or the research and experimental expenditures described in Section 174 of the Internal Revenue Code had been capitalized and amortized ratably over the 10-year period beginning with the taxable year in which those expenditures were made.

SEC. 3.1. Section 17063 of the Revenue and Taxation Code is amended to read:

17063. For purposes of this chapter, the items of tax preference are:

(a) An amount equal to the excess itemized deductions for the taxable year (as determined under Section 17063.2).

(b) With respect to each "Section 1250 property" (as defined in Section 1250(c) of the Internal Revenue Code), the amount by which the deduction allowable for the taxable year for exhaustion, wear or tear, obsolescence, or amortization exceeds the depreciation deduction which would have been allowable for the taxable year, had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life (determined without regard to Section 167(k) of the Internal Revenue Code) for which the taxpayer has held the property.

(c) With respect to each item of Section 1245 property (as defined in Section 1245(a)(3) of the Internal Revenue Code) which is subject to a lease, the amount by which—

(1) The deduction allowable for the taxable year for depreciation or amortization, exceeds

(2) The deduction which would have been allowable for the taxable year had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life for which the taxpayer has held the property.

(d) With respect to each property (as defined in Sections 17681 to 17690, inclusive), the excess of the deduction for depletion allowable under Section 17681 for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard

to the depletion deduction for the taxable year).

(e) The amount of the tax preference income with respect to capital gains shall be an amount (but not below zero) equal to the difference between (1) the taxpayer's total net capital gains and losses (determined without regard to any capital loss carryover) for the taxable year, and (2) the taxpayer's net capital gains and losses recognized by virtue of Section 18162.5 for the same taxable year.

(f) The amount of net farm loss in excess of fifty thousand dollars ($50,000) which is deducted from nonfarm income. In the case of a husband or wife who files a separate return, the amount specified in the preceding sentence shall be twenty-five thousand dollars ($25,000). This subdivision shall not apply if two-thirds or more of the taxpayer's average gross income from all sources for three years out of the immediately preceding five years is from farming. Nor shall this subdivision apply if the net farm loss is the result of aquaculture activities. For purposes of this subdivision, "aquaculture" means a form of agriculture as defined in Section 17 of the Fish and Game Code.

(g) The excess of the intangible drilling and development costs described in Section 263(c) of the Internal Revenue Code paid or incurred in connection with oil, gas, and geothermal wells (other than costs incurred in drilling a nonproductive well) allowable under this part for the taxable year over the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in Section 17063.3) had been used with respect to such costs. This subdivision shall be applied separately with respect to:

(1) All oil and gas properties which are not described in paragraph (2), and

(2) All properties which are geothermal deposits (as defined in Section 613(e)(3) of the Internal Revenue Code of 1954).

(h) With respect to each mine or other natural deposit (other than an oil or gas well) of the taxpayer, an amount equal to the excess of—

(1) The amount allowable as a deduction under Section 17689.5 or 17690(a), over

(2) The amount which would have been allowable if the expenditures had been capitalized and amortized ratably over the 10-year period beginning with the taxable year in which those expenditures were made.

(i) An amount equal to the excess of—

(1) The amount allowable as a deduction under Section 173 or 174(a) of the Internal Revenue Code for the taxable year, over

(2) The amount which would have been allowable for the taxable year if the circulation expenditures described in Section 173 of the Internal Revenue Code or the research and experimental expenditures described in Section 174 of the Internal Revenue Code had been capitalized and amortized ratably over the 10-year period beginning with the taxable year in which those expenditures were

made.

SEC. 4. Section 17087 is added to the Revenue and Taxation Code, to read:

17087. (a) Section 86 of the Internal Revenue Code, relating to Social Security and Tier 1 Railroad Retirement Benefits, does not apply.

(b) Section 72(r) of the Internal Revenue Code, relating to Tier 2 Railroad Retirement Benefits, does not apply.

(c) Section 105(i) of the Internal Revenue Code, relating to sick pay under the Railroad Unemployment Insurance Act, does not apply.

SEC. 5. Section 17279 is added to the Revenue and Taxation Code, to read:

17279. Section 274(h) (6) of the Internal Revenue Code, relating to treatment of conventions in certain Caribbean countries, does not apply.

SEC. 6. Section 17511 of the Revenue and Taxation Code is repealed.

SEC. 7. Section 23401 of the Revenue and Taxation Code is amended to read:

23401. For purposes of this chapter the items of tax preference are:

(a) With respect to each property as described in Section 1250(c) of the Internal Revenue Code as such provision read on April 1, 1970, the amount by which the deduction allowable for the income year for exhaustion, wear, tear, obsolescence, or amortization exceeds the depreciation deduction which would have been allowable for the income year, had the taxpayer depreciated the property under the straight line method for each income year of its useful life (determined without regard to Section 24354.2 or 24381) for which the taxpayer has held the property.

(b) In the case of a taxpayer subject to tax under Article 3 (commencing with Section 23181) of Chapter 2, the amount by which the deduction allowable for the income year for a reasonable addition to a reserve for bad debts exceeds the amount that would have been allowed if the taxpayer maintained its bad debt reserve for all income years on the basis of actual experience, as defined in Section 585(b) (3) (A) of the Internal Revenue Code of 1954.

It is the intent of the Legislature that this subdivision shall apply only to new additions each year to the bad debt reserve.

(c) With respect to each property, as defined in Sections 24831 to 24835, inclusive, the excess of the deduction for depletion allowable under Section 24835 for the income year over the adjusted basis of the property at the end of the income year, as determined without regard to the depletion deduction for the income year.

(d) With respect to each mine or other natural deposit (other than an oil or gas well) of the taxpayer, an amount equal to the excess of—

(1) The amount allowable as a deduction under Section 24836 or

24837.5, over

(2) The amount which would have been allowable if the expenditures had been capitalized and amortized ratably over the 10-year period beginning with the income year in which those expenditures were made.

(e) An amount equal to the excess of—

(1) The amount allowable as a deduction under Sections 24364 to 24366, inclusive, for the income year, over

(2) The amount which would have been allowable for the income year if the circulation expenditures described in Section 24364 or the research and experimental expenditures described in Section 24365 or 24366 had been capitalized and amortized ratably over the 10-year period beginning with the income year in which those expenditures were made.

SEC. 8. Section 24443 of the Revenue and Taxation Code is amended to read:

24443. (a) In the case of any individual who attends a convention, seminar, or similar meeting which is held outside the North American area, no deduction shall be allowed under Section 24343 for expenses allocable to that meeting unless the taxpayer establishes that the meeting is directly related to the active conduct of his or her trade or business and that, after taking into account in the manner provided by regulations which may be prescribed by the Franchise Tax Board—

(1) The purpose of the meeting and the activities taking place at the meeting.

(2) The purposes and activities of the sponsoring organizations or groups.

(3) The residences of the active members of the sponsoring organization and the places at which other meetings of the sponsoring organization or groups have been held or will be held.

(4) Such other relevant factors as the taxpayer may present,

it is as reasonable for the meeting to be held outside the North American area as within the North American area.

(b) In the case of any individual who attends a convention, seminar, or other meeting which is held on any cruise ship, no deduction shall be allowed under Section 24343 for expenses allocable to that meeting, unless the taxpayer meets the requirements of subdivision (e) and establishes that the meeting is directly related to the active conduct of his or her trade or business or to an activity described in Section 24343 and that—

(1) The cruise ship is a vessel registered in the United States; and

(2) All ports of call of that cruise ship are located in the United States or in possessions of the United States. With respect to cruises beginning in any calendar year, not more than two thousand dollars ($2,000) of the expenses attributable to an individual attending one or more meetings may be taken into account under Section 24343 by reason of the preceding sentence.

(c) For purposes of this section:

(1) "North American area" means the United States, its possessions, and the trust territory of the Pacific Islands, and Canada and Mexico.

(2) "Cruise ship" means any vessel sailing within or without the territorial waters of the United States.

(d) For purposes of this section:

(1) Except as provided in paragraph (2), this section shall apply to deductions otherwise allowable under Section 24343 to any person, whether or not that person is the individual attending the convention, seminar, or similar meeting.

(2) This section shall not deny a deduction to any person other than the individual attending the convention, seminar, or similar meeting with respect to any amount paid by that person to or on behalf of that individual if includable in the gross income of that individual. The preceding sentence shall not apply if the amount is required to be included in any information return filed by that person under Section 18802 and is not so included.

(e) No deduction shall be allowed under Section 24343 for expenses allocable to attendance at a convention, seminar, or similar meeting on any cruise ship unless the taxpayer claiming the deduction attaches to the return of tax on which the deduction is claimed all of the following:

(1) A written statement signed by the individual attending the meeting which includes—

(A) Information with respect to the total days of the trip, excluding the days of transportation to and from the cruise ship port, and the number of hours of each day of the trip which that individual devoted to scheduled business activities.

(B) A program of the scheduled business activities of the meeting.

(C) Any other information which may be required in regulations prescribed by the Franchise Tax Board.

(2) A written statement signed by an officer of the organization or group sponsoring the meeting which includes all of the following:

(A) A schedule of business activities of each day of the meeting.

(B) The number of hours which the individual attending the meeting attended those scheduled business activities.

(C) Any other information which may be required in regulations prescribed by the Franchise Tax Board.

SEC. 9. Section 13020.5 of the Unemployment Insurance Code is repealed.

SEC. 10. The Franchise Tax Board shall report to the Legislature on or before January 31, 1986, on the results of the federal back-up withholding program and how the existence of the federal program has affected compliance and enforcement activities in California.

SEC. 11. Section 1.1 of this bill incorporates amendments to Section 17024.5 of the Revenue and Taxation Code proposed by both this bill and AB 2380. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 17024.5 of the Revenue and Taxation Code, and

(3) this bill is enacted after AB 2380, in which case Section 1 of this bill shall not become operative.

SEC. 12. Section 3.1 of this bill incorporates amendments to Section 17063 of the Revenue and Taxation Code proposed by both this bill and SB 1278. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 17063 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 1278, in which case Section 3 of this bill shall not become operative.

SEC. 13. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, this act shall be applied in the computation of taxes for taxable years commencing on and after January 1, 1984.

CHAPTER 1459

An act to add Part 7 (commencing with Section 17500) to Division 4 of Title 2 of the Government Code, and to add Section 2239 to the Revenue and Taxation Code, relating to costs mandated by the state, and making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Part 7 (commencing with Section 17500) is added to Division 4 of Title 2 of the Government Code, to read:

PART 7. STATE-MANDATED LOCAL COSTS

CHAPTER 1. LEGISLATIVE INTENT

17500. The Legislature finds and declares that the existing system for reimbursing local agencies and school districts for the costs of state-mandated local programs has not provided for the effective determination of the state's responsibilities under Section 6 of Article XIII B of the California Constitution. The Legislature finds and declares that the failure of the existing process to adequately and consistently resolve the complex legal questions involved in the determination of state-mandated costs has led to an increasing reliance by local agencies and school districts on the judiciary and, therefore, in order to relieve unnecessary congestion of the judicial system, it is necessary to create a mechanism which is capable of rendering sound quasi-judicial decisions and providing an effective means of resolving disputes over the existence of state-mandated local programs.

It is the intent of the Legislature in enacting this part to provide

for the implementation of Section 6 of Article XIII B of the California Constitution and to consolidate the procedures for reimbursement of statutes specified in the Revenue and Taxation Code with those identified in the Constitution. Further, the Legislature intends that the Commission on State Mandates, as a quasi-judicial body, will act in a deliberative manner in accordance with the requirements of Section 6 of Article XIII B of the California Constitution.

CHAPTER 2. GENERAL PROVISIONS

17510. Unless the context otherwise requires, the definitions contained in this chapter govern the construction of this part. The definition of a word applies to any variants thereof and the singular tense of a word includes the plural.

17511. "City" means any city whether general law or charter, except a city and county.

17512. "Commission" means the Commission on State Mandates.

17513. "Costs mandated by the federal government" means any increased costs incurred by a local agency or school district after January 1, 1973, in order to comply with the requirements of a federal statute or regulation. "Costs mandated by the federal government" includes costs resulting from enactment of a state law or regulation where failure to enact that law or regulation to meet specific federal program or service requirements would result in substantial monetary penalties or loss of funds to public or private persons in the state. "Costs mandated by the federal government" does not include costs which are specifically reimbursed or funded by the federal or state government or programs or services which may be implemented at the option of the state, local agency, or school district.

17514. "Costs mandated by the state" means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.

17514.5. "Cost savings authorized by the state" means any decreased costs which a local agency or school district realizes as a result of any statute enacted or any executive order adopted which permits or requires the discontinuance of or a reduction in the level of service of an existing program which was mandated before January 1, 1975.

17515. "County" means any chartered or general law county. "County" includes a city and county.

17516. "Executive order" means any order, plan, requirement, rule, or regulation issued by any of the following:

(a) The Governor.

(b) Any officer or official serving at the pleasure of the Governor.

(c) Any agency, department, board, or commission of state government.

"Executive order" does not include any order, plan, requirement, rule, or regulation issued by the State Water Resources Control Board or by any regional water quality control board pursuant to Division 7 (commencing with Section 13000) of the Water Code. It is the intent of the Legislature that the State Water Resources Control Board and regional water quality control boards will not adopt enforcement orders against publicly owned dischargers which mandate major waste water treatment facility construction costs unless federal financial assistance and state financial assistance pursuant to the Clean Water Bond Act of 1970 and 1974, is simultaneously made available. "Major" means either a new treatment facility or an addition to an existing facility, the cost of which is in excess of 20 percent of the cost of replacing the facility.

17517. "Fund" means the State Mandates Claims Fund.

17518. "Local agency" means any city, county, special district, authority, or other political subdivision of the state.

17519. "School district" means any school district, community college district, or county superintendent of schools.

17520. "Special district" means any agency of the state which performs governmental or proprietary functions within limited boundaries. "Special district" includes a redevelopment agency, a joint powers agency or entity, a county service area, a maintenance district or area, an improvement district or improvement zone, or any other zone or area. "Special district" does not include a city, a county, a school district, or a community college district.

County free libraries established pursuant to Chapter 2 (commencing with Section 27151) of Division 20 of the Education Code, areas receiving county fire protection services pursuant to Section 25643 of the Government Code, and county road districts established pursuant to Chapter 7 (commencing with Section 1550) of Division 2 of the Streets and Highways Code shall be considered "special districts" for all purposes of this part.

17521. "Test claim" means the first claim filed with the commission alleging that a particular statute or executive order imposes costs mandated by the state.

CHAPTER 3. COMMISSION ON STATE MANDATES

17525. There is hereby created the Commission on State Mandates, which shall consist of five members as follows:

(1) The Controller.

(2) The Treasurer.

(3) The Director of Finance.

(4) The Director of the Office of Planning and Research.

(5) A public member with experience in public finance, appointed by the Governor and approved by the Senate.

The pubic member shall serve for a term of four years subject to

renewal.

17526. All meetings of the commission shall be open to the public, except that the commission may meet in executive session to consider the appointment or dismissal of officers or employees of the commission or to hear complaints or charges brought against a member, officer, or employee of the commission.

17527. In carrying out its duties and responsibilities, the commission shall have the following powers:

(a) To examine any document, report, or data, including computer programs and data files, held by any local agency or school district.

(b) To meet at times and places as it may deem proper.

(c) As a body or, on the authorization of the commission, as a committee composed of one or more members, to hold hearings at any time and place it may deem proper.

(d) Upon a majority vote of the commission, to issue subpoenas to compel the attendance of witnesses and the production of books, records, papers, accounts, reports, and documents.

(e) To administer oaths.

(f) To contract with other agencies or individuals, public or private, as it deems necessary, to provide or prepare services, facilities, studies, and reports to the commission as will assist it in carrying out its duties and responsibilities.

(g) To adopt, promulgate, amend, and rescind rules and regulations, which shall not be subject to the review and approval of the Office of Administrative Law pursuant to the provisions of the Administrative Procedure Act provided for in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(h) To do any and all other actions necessary or convenient to enable it fully and adequately to perform its duties and to exercise the powers expressly granted to it.

17528. The members of the commission shall elect a chairperson and a vice chairperson of the commission.

17529. The commission may appoint as attorney to the commission an attorney at law of this state, who shall hold office at the pleasure of the commission. The attorney shall represent and appear for the commission in all actions and proceedings involving any question under this part or under any order or act of the commission.

The attorney shall advise the commission and each member of the commission, when so requested, in regard to all matters in connection with the powers and duties of the commission and the members thereof. The attorney shall generally perform all duties and services as attorney to the commission which the commission may require.

17530. The commission shall appoint an executive director, who shall be exempt from civil service and shall hold office at the pleasure of the commission. The executive director shall be responsible for the executive and administrative duties of the commission and shall

organize, coordinate, supervise, and direct the operations and affairs of the commission and expedite all matters within the jurisdiction of the commission. The executive director shall keep a full and true record of all proceedings of the commission, issue all necessary process, writs, warrants, and notices, and perform other duties as the commission prescribes.

17531. The executive director may employ those officers, examiners, experts, statisticians, accountants, inspectors, clerks, and employees as the executive director deems necessary to carry out the provisions of this part or to perform the duties and exercise the powers conferred upon the commission by law.

17532. A majority of the commissioners shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of the commission. Any investigation, inquiry, or hearing which the commission has power to undertake or to hold may be undertaken or held by or before any commissioner or commissioners designated for the purpose by the commission. The evidence in any investigation, inquiry, or hearing may be taken by the commissioner or commissioners to whom the investigation, inquiry, or hearing has been assigned or, in his or her or their behalf, by an examiner designated for that purpose. Every finding, opinion, and order made by the commissioner or commissioners so designated, pursuant to the investigation, inquiry, or hearing, when approved or confirmed by the commission and ordered filed in its office, shall be deemed to be the finding, opinion, and order of the commission.

CHAPTER 4. IDENTIFICATION AND PAYMENT OF COSTS MANDATED BY THE STATE

Article 1. Commission Procedure

17550. Reimbursement of local agencies and school districts for costs mandated by the state shall be provided pursuant to this chapter.

17551. (a) The commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district that the local agency or school district is entitled to be reimbursed by the state for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution.

(b) The commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district filed on and after January 1, 1985, that the local agency or school district is entitled to be reimbursed by the state for costs mandated by the state, as defined in Section 2207 or 2207.5 of the Revenue and Taxation Code, pursuant to a statute enacted, or an executive order implementing a statute enacted, before January 1, 1975.

17552. This chapter shall provide the sole and exclusive procedure by which a local agency or school district may claim

reimbursement for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution or for costs mandated by the state, as defined in Section 2207 or 2207.5 of the Revenue and Taxation Code, pursuant to a statute enacted, or an executive order implementing a statute enacted, before January 1, 1975.

17553. The commission shall adopt procedures for receiving claims pursuant to this article and for providing a hearing on those claims. The hearing procedure shall provide for presentation of evidence by the claimant, the Department of Finance and any other affected department or agency, and any other interested person. Hearing of a claim may be postponed at the request of the claimant, without prejudice.

17555. The commission, within 10 days after receipt of a test claim based upon a statute or executive order, shall set a date for a public hearing on the claim within a reasonable time. The test claim may be based upon estimated costs that a local agency or school district may incur as a result of the statute or executive order and may be filed at any time after the statute is enacted or the executive order is adopted. The claim shall be submitted in a form prescribed by the commission. After a hearing in which the claimant and any other interested organization or individual may participate, the commission shall determine if there are costs mandated by the state.

17556. (a) The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:

(1) The claim is submitted by a local agency or school district which requested legislative authority for that local agency or school district to implement the program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. A resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district which requests authorization for that local agency or school district to implement a given program shall constitute a request within the meaning of this paragraph.

(2) The statute or executive order affirmed for the state that which had been declared existing law or regulation by action of the courts.

(3) The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation.

(4) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

(5) The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts.

(6) The statute or executive order imposed duties which were expressly included in a ballot measure approved by the voters in a statewide election.

(7) The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.

(b) The commission may find costs mandated by the state, as defined in Section 2207 or 2207.5 of the Revenue and Taxation Code, solely with regard to a statute enacted, or an executive order implementing a statute enacted, before January 1, 1975. However, such a finding shall not constitute costs mandated by the state as defined in Section 17514.

17557. If the commission determines there are costs mandated by the state pursuant to Section 17555, it shall determine the amount to be subvened to local agencies and school districts for reimbursement. In so doing it shall adopt parameters and guidelines for reimbursement of any claims relating to the statute or executive order. A local agency, school district, and the state may file a claim or request with the commission to amend, modify, or supplement the parameters or guidelines. The commission may, after public notice and hearing, amend, modify, or supplement the parameters and guidelines.

In adopting parameters and guidelines, the commission may adopt an allocation formula or uniform allowance which would provide for reimbursement of each local agency or school district of a specified amount each year.

17558. The commission shall submit the adopted parameters and guidelines to the Controller. All claims relating to a statute or executive order which are filed after the determination of the test claim pursuant to Section 17557 shall be transferred to the Controller who shall pay and audit the claims from funds made available for that purpose.

17559. A claimant or the state may commence a proceeding in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure to set aside a decision of the commission on the ground that the commission's decision is not supported by substantial evidence. The court may order the commission to hold another hearing regarding the claim and may direct the commission on what basis the claim is to receive a rehearing.

Article 2. Specific Costs Mandated by the State

17575. When a bill is introduced in the Legislature, and each time a bill is amended, on and after January 1, 1985, the Legislative Counsel shall determine whether the bill mandates a new program or higher level of service pursuant to Section 6 of Article XIII B of the California Constitution. The Legislative Counsel shall make this determination known in the digest of the bill and shall describe in

the digest the basis for this determination. The determination by the Legislative Counsel shall not be binding on the commission in making its determination pursuant to Section 17555.

17576. Whenever the Legislative Counsel determines that a bill will mandate a new program or higher level of service pursuant to Section 6 of Article XIII B of the California Constitution, the Department of Finance shall prepare an estimate of the amount of reimbursement which will be required. This estimate shall be prepared for the respective committees of each house of the Legislature which consider taxation measures and appropriation measures and shall be prepared prior to any hearing on the bill by any such committee.

17577. The estimate required by Section 17576 shall be the amount estimated to be required during the first fiscal year of a bill's operation in order to reimburse local agencies and school districts for costs mandated by the state by the bill.

17578. In the event that a bill is amended on the floor of either house, whether by adoption of the report of a conference committee or otherwise, in such a manner as to mandate a new program or higher level of service pursuant to Section 6 of Article XIII B of the California Constitution, the Legislative Counsel shall immediately inform, respectively, the Speaker of the Assembly and the President of the Senate of that fact. Notification from the Legislative Counsel shall be published in the journal of the respective houses of the Legislature.

17579. (a) Any bill introduced or amended on and after January 1, 1985, for which the Legislative Counsel has determined the bill will mandate a new program or higher level of service pursuant to Section 6 of Article XIII B of the California Constitution, shall contain a section specifying that reimbursement shall be made from the fund pursuant to Section 17610 when the amount of the claim has been determined pursuant to Article 1 (commencing with Section 17550) of this chapter or that there is no mandate or that the mandate is being disclaimed and the reason therefor.

(b) Any bill introduced or amended on and after January 1, 1985, may, but is not required to, contain an appropriation to provide reimbursement of costs mandated by the state. Any appropriation shall be made to the fund.

Article 3. Reports to the Legislature

17600. At least twice each calendar year the commission shall report to the Legislature on the number of mandates it has found pursuant to Article 1 (commencing with Section 17550) and the estimated statewide costs of these mandates. This report shall identify the statewide costs estimated for each mandate and the reasons for recommending reimbursement.

17601. The commission shall report to the Legislature on January 15, 1986, and each January 15 thereafter, on the number of claims it

denied during the preceding calendar year and the basis on which the particular claims were denied.

Article 4. Payment of Claims

17610. The costs arising from a statute containing a statement that the statute mandates a new program or higher level of service and specifying that reimbursement shall be made from the fund shall, upon certification of the parameters and guidelines by the commission to the Controller, be paid from the fund, provided that the statewide cost of the claim does not exceed five hundred thousand dollars ($500,000).

17611. The costs of a claim submitted pursuant to Article 1 (commencing with Section 17550) shall be paid only as provided in this article, except Section 17610.

17612. (a) Immediately upon receipt of the report submitted by the commission pursuant to Section 17600, a local government claims bill shall be introduced in the Legislature. The local government claims bill, at the time of its introduction, shall provide for an appropriation sufficient to pay the estimated costs of these mandates.

(b) If the Legislature deletes from a local government claims bill funding for a mandate, the local agency or school district may file in the Superior Court of the County of Sacramento an action in declaratory relief to declare the mandate unenforceable and enjoin its enforcement.

17614. There is hereby created the State Mandates Claims Fund. Notwithstanding Section 13340, money in the fund is continuously appropriated without regard to fiscal years for the sole purpose of paying claims pursuant to Section 17610. Notwithstanding the foregoing provisions of this section, money placed in the fund pursuant to subdivision (b) of Section 17579 shall not be subject to the statewide cost limitation prescribed in Section 17610.

CHAPTER 5. CLAIMS FOR OFFSETTING LOCAL SAVINGS AGAINST STATE REIMBURSEMENTS

17620. The commission shall hear and decide upon a claim by any state agency that a local agency or school district has realized a cost savings authorized by the state.

Notwithstanding any other provisions of law, this chapter shall provide the sole and exclusive procedure by which the commission shall hear and decide upon a claim that a local agency or school district has realized a cost savings authorized by the state.

No claim shall be made to the commission pursuant to this chapter unless the cost savings identified by the claim exceeds two thousand five hundred dollars ($2,500), on a statewide basis, per fiscal year.

Any state agency with the authority to audit the records of any local agency or school district may do so for the purpose of establishing that there were cost savings authorized by the state in

excess of two thousand five hundred dollars ($2,500) for which a claim may be filed with the commission.

17621. The commission shall adopt procedures for receiving claims pursuant to this chapter and for providing a hearing on those claims. The hearing procedure shall provide for presentation of evidence by any state agency, by the affected local agency or school district, and by any other interested parties.

17622. The commission, within 10 days after receipt of the first claim based upon a statute or executive order, shall set a date for public hearing on the claim within a reasonable time. The claim shall be submitted in a form prescribed by the commission. After a hearing in which any state agency, the affected local agency or school district, and any other interested parties may participate, the commission, if it determines there is a cost savings authorized by the state, shall adopt parameters and guidelines for identifying all cost savings realized by local agencies or school districts relating to the statute or executive order. These parameters and guidelines shall provide for an offset between the cost savings authorized by the state and the reasonable costs of preparing the reports required by Section 17624. A local agency, school district, and the state may file a claim or request with the commission to amend, modify, or supplement parameters and guidelines. The commission may, after public notice and hearing, amend, modify, or supplement the parameters and guidelines.

17623. At least twice each calendar year, the commission shall submit to the Legislature a report on claims it has approved pursuant to this chapter. This report may be included in the report required by Section 17600. A section requiring the Controller to deduct 50 percent of the cost savings realized by each local agency or school district from the reimbursements for costs mandated by the state made pursuant to Chapter 4 (commencing with Section 17550) shall, at the time of its introduction, be included in the local government claims bill required by Section 17612.

17624. The commission may recommend an allocation formula based on actual savings.

17625. (a) Each local agency or school district which submits a claim pursuant to Chapter 4 (commencing with Section 17550) shall submit a report on the amount of cost savings authorized by the state which it realized in the preceding fiscal year.

(b) Subsequent to the enactment of a local government claims bill requiring the Controller to deduct cost savings realized by local agencies or school districts pursuant to a statute or executive order, the Controller shall distribute the claiming instructions for reporting cost savings to all applicable local agencies and school districts.

(c) The Controller shall reduce the payments to each local agency or school district for costs mandated by the state by 50 percent of the amount of cost savings authorized by the state realized by the local agency or school district in the preceding fiscal year. The first fiscal year for which the Controller shall reduce these payments shall be

the fiscal year during which the local government claims bill requiring the deduction is enacted. The Controller shall not reduce any payment unless the cost savings authorized by the state and realized by a local agency or school district exceeds two hundred dollars ($200).

(d) No claim for mandated costs shall be paid by the Controller unless the local agency or school district which submitted the claim has also submitted all savings reports required by this section or a certification that the local agency or school district did not realize any savings which exceeds two hundred dollars ($200).

17626. A school district, local agency, or the state may commence a proceeding in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure to set aside a decision of the commission on the ground that the commission's decision is not supported by substantial evidence. The court may order the commission to hold another hearing regarding the claim and may direct the commission on what basis the claim is to receive a rehearing.

CHAPTER 6. OPERATIVE DATE

17630. The provisions of this part shall be applicable to claims for state reimbursement of costs mandated by the state on and after January 1, 1985. All claims for state reimbursement filed under Article 1 (commencing with Section 2201), Article 2 (commencing with Section 2225), Article 3 (commencing with Section 2240), Article 3.5 (commencing with Section 2250), and Article 3.6 (commencing with Section 2256) of Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code which have not been included in a local government claims bill pursuant to Section 2255 of the Revenue and Taxation Code enacted before January 1, 1985, shall be transferred to and considered by the commission pursuant to the provisions of this part.

SEC. 2. Section 2239 is added to the Revenue and Taxation Code, to read:

2239. (a) Except as provided in subdivision (b), the provisions of Article 1 (commencing with Section 2201), Article 2 (commencing with Section 2225), Article 3 (commencing with Section 2240), Article 3.5 (commencing with Section 2250), and Article 3.6 (commencing with Section 2256) of this chapter relating to state reimbursement to local agencies and school districts shall be applicable to costs mandated by the state before July 1, 1980.

(b) All claims for state reimbursement which have not been included in a local government claims bill pursuant to Section 2255 enacted before January 1, 1985, shall be transferred to and considered by the Commission on State Mandates as claims filed pursuant to subdivision (b) of Section 17551 of the Government Code.

SEC. 3. The sum of ten million two hundred thousand dollars ($10,200,000) is hereby appropriated from the General Fund to be allocated by the Controller, as follows:

(a) Two hundred thousand dollars ($200,000) to the Commission on State Mandates for administration of the provisions of Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code from January 1, 1985, to June 30, 1985, inclusive.

(b) Ten million dollars ($10,000,000) to the State Mandates Claims Fund for the purposes of the provisions of Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 1460

An act to add Article 7.7 (commencing with Section 25392) to Chapter 6.8 of Division 20 of the Health and Safety Code, relating to hazardous substances, and making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Article 7.7 (commencing with Section 25392) is added to Chapter 6.8 of Division 20 of the Health and Safety Code, to read:

Article 7.7. Hazardous Substance Cleanup Financing Authority

25392. This article shall be known and may be cited as the Filante-Johnston Hazardous Substance Cleanup Financing Authority Act.

25392.1. The Legislature hereby finds and declares as follows:

(a) It is necessary that the state, in cooperation with the federal government, use all practical and commercially feasible means to promote the prompt and efficient removal of, and remedial actions to, releases of hazardous substances. Furthermore, the Legislature finds that removal of, and remedial actions to, releases of hazardous substances will reduce the degradation of the environment and protect the health, welfare, and safety of the people of this state, and that these actions are in the public interest and serve a public purpose.

(b) It is the purpose of this article to carry out, and make effective, the findings of the Legislature and, to that end, to provide industry within the state with an alternative method for financing the removal of, and remedial actions to, releases of hazardous substances to promote the health and welfare of the citizens of the state.

(c) This article is necessary for the welfare of the state and its inhabitants, and shall be liberally construed to effect its purposes.

25392.2. For purposes of this article, the following definitions apply:

(a) "Authority" means the Hazardous Substance Cleanup

Financing Authority established pursuant to Section 25392.3 and any board, commission, department, or officer which succeeds to the functions of the authority or to which is given the powers conferred upon the authority by this article.

(b) "Bonds," unless the context otherwise requires, means the negotiable bonds, notes, and other securities and obligations, including bond anticipation notes and agreements relating to the notes, issued by the authority pursuant to subdivision (a) of Section 25392.15.

(c) "Cost," as applied to a project or portion of a project financed pursuant to this article, means all, or a part of, the cost of all of the following:

(1) Acquiring the lands, structures, real or personal property, or an interest therein, rights, rights-of-way, franchises, easements, and interests which are acquired or used for a project.

(2) Constructing the structures and personal property used for a project.

(3) Any other expenses necessary or incident to constructing, acquiring, or financing a project.

(d) "Participating party" means any person, company, corporation, partnership, firm, or other entity or group of entities which is engaged in operations within this state and which requires financing pursuant to this article to aid and assist in removing hazardous substances.

(e) "Project" means any land, buildings, or improvements designed or developed to promote the removal of, and remedial actions to, releases of hazardous substances.

25392.3. (a) The Hazardous Substance Cleanup Financing Authority is hereby established as a public instrumentality and, by exercising the powers specified in this article, the authority shall perform an essential public function.

(b) The authority shall consist of three members, one of whom shall be the Director of Finance, one of whom shall be the Controller, and one of whom shall be the Treasurer, who shall serve as the chair of the authority.

(c) All members of the authority shall serve without compensation.

25392.4. (a) The authority shall administer this article and may exercise all powers reasonably necessary to carry out the powers and responsibilities expressly granted or imposed upon it pursuant to this article.

(b) The authority shall maintain an office in the City of Sacramento.

(c) The authority may employ an executive secretary and any other persons necessary for the authority to properly perform the duties imposed upon the authority pursuant to this article. The executive secretary shall serve at the pleasure of the authority and shall receive the compensation which is fixed by the authority.

(d) The authority may adopt bylaws to carry out this article and

may call upon any board or department of the state government for aid and assistance in the preparation of plans and specifications and in the development of technology necessary to effectively promote the removal of, and remedial actions to, releases of hazardous substances.

25392.5. (a) The Attorney General is the legal counsel for the authority, but, with the approval of the Attorney General, the authority may employ legal counsel to carry out the duties and functions imposed upon the authority by this article, including employing bond counsel, in connection with the issuance and sale of bonds, as the authority determines advisable.

(b) The Director of Finance is the treasurer of the authority.

25392.6. The authority may do all of the following:

(a) Adopt an official seal.

(b) Sue and be sued in its own name.

(c) Issue bonds of the authority, including, at the option of the authority, obligations bearing interest that is taxable for purposes of federal income taxation, for any of the purposes specified in this article, and to fund or refund the bonds as specified in this article.

(d) Determine the location and character of any project financed pursuant to this article.

(e) Lend financial assistance to any participating party.

(f) Enter into loan agreements with any participating party for financing a project, including creating a lien or security interest in the property for the purpose of constructing, reconstructing, renovating, replacing, leasing, as lessor or lessee, and regulating the project.

(g) Enter into contracts for the sale of a project, including installment sales or sales under conditional sales contracts.

(h) Fix fees and charges for projects, and interest rates for loans for projects, and revise, from time to time, these fees, charges, and interest rates.

(i) Collect rates, rents, fees, and charges for the use of, and for any facilities or services furnished, or to be furnished, by a project or any part of a project.

(j) Contract with any person, partnership, association, corporation, or public agency concerning any facilities or services furnished by a project.

(k) Fix the terms and conditions upon which a project may be sold or disposed of, including by an installment sales contract or by other terms.

(*l*) Employ and fix the compensation of bond counsel, financial consultants, and advisers, whom the authority determines are necessary, to issue and sell the bonds of the authority.

(m) Contract for engineering, architectural, accounting, or the other services of appropriate state agencies, which the authority determines are necessary to successfully develop a project.

(n) Pay the reasonable costs of consulting engineers, architects, accountants, and construction experts employed by any

participating party if the authority determines that these services are necessary to successfully develop a project and that these services are not obtainable from any other state agency.

(o) Do all other things necessary or convenient to carry out this article.

25392.7. The authority shall establish criteria for selecting projects to receive financing assistance from the authority.

25392.8. All expenses incurred by the authority in carrying out this article are payable solely from funds provided pursuant to this article. No liability or obligation is imposed upon the state pursuant to this article, and, except as provided in subdivision (b) of Section 25392.13, the authority shall not incur a liability or obligation beyond the extent to which moneys are provided pursuant to this article.

25392.9. (a) All projects shall be completed pursuant to the requirements specified by the authority.

(b) The authority may acquire, by deed, purchase, lease, contract, gift, devise, or otherwise, any real or personal property necessary or convenient to operate a project, upon those terms and conditions which the authority determines are advisable.

(c) If necessary, the authority may execute deeds and conveyances to a participating party, upon those terms and conditions which the authority may prescribe, when the principal of, and interest on, bonds which the authority has issued to finance the cost of the project of the participating party, including any refunding bonds issued to refund and refinance these bonds, are fully paid and retired, or when adequate provision is made for the payment and retirement of the bonds, and when all other conditions of the bond resolution, indenture, or agreement are released in accordance with the provisions of the resolution, indenture, or agreement.

25392.10. (a) The authority shall make an initial determination whether to issue bonds to lend financial assistance to a participating party at the request of the participating party at the next meeting of the authority which occurs 30 days after receiving the request. The executive secretary may be authorized to take this initial action to determine whether to issue bonds by a resolution of general authority and, if so authorized, the executive secretary shall make an initial determination to issue bonds within 45 days after receiving the request of a participating party. The authority or executive secretary may, in making an initial determination whether to issue bonds, reserve the right of the authority to further review an application for financing and to consider the terms of the application before issuing the bonds.

(b) The authority shall make the final decision to approve or disapprove the issuance of bonds within 180 days after receiving the party's request for a final decision. The participating party requesting a final decision shall include with its request evidence that the party has met any and all conditions for issuing the bonds which were imposed when the authority or executive secretary made the initial determination pursuant to subdivision (a), and shall

also include copies of forms of all principal legal documents which are to be approved by the authority.

(c) In making its final decision to issue bonds, the authority may specify those terms which it reasonably determines are necessary or desirable.

(d) Any action taken pursuant to this section is at the discretion of the authority.

25392.11. (a) The Legislature hereby finds and declares that small businesses may have difficulty in establishing adequate security for the bonds issued by the authority in their behalf, and that establishing common reserve funds will help to provide reasonable security for these bonds and will help to make the authority's services available to various small businesses.

(b) For the purpose of establishing and maintaining those common reserve funds which the authority determines are necessary or desirable to secure or issue its bonds, the authority may, pursuant to its contracts with participating parties, levy fees or other charges on, or require deposits from, participating parties receiving financing for projects pursuant to this article. Before levying any fees or charges or requiring deposits, the authority shall adopt rules or regulations concerning the operation of the common reserve funds and the amounts, and any payment schedule for, the fees, charges, or deposits.

(c) Subject to any prior contractual obligations with any of its bondholders, the authority may establish one or more common reserve funds for any or all of its bonds.

(d) Each common reserve fund established pursuant to this section shall be deposited by the authority into a special account, which shall be established by the Controller. Notwithstanding any other provision of law, all interest or other increment earned by investment or deposit of moneys in the account pursuant to Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, or pursuant to any other provision of law, shall be credited to, and deposited in, the account.

25392.12. On or before March 1, the authority shall submit to the Legislature an annual report of its activities for the preceding calendar year.

25392.13. (a) The authority may incur indebtedness and issue securities of any kind or class, and renew the same, if the indebtedness, however evidenced, is payable solely from the revenues of the authority and if the proceeds of its bonds do not exceed the sum of one hundred million dollars ($100,000,000) of new debt, except as specified in subdivision (b).

(b) The Legislature may, be statute, authorize the authority to issue bonds in excess of the amount specified in subdivision (a).

25392.14. The authority shall deposit all proceeds from the sale of bonds into the Hazardous Substance Cleanup Financing Fund, which fund is hereby created and continuously appropriated to the authority to carry out the purposes of this article, notwithstanding

Section 13340 of the Government Code.

25392.15. (a) The authority may, from time to time, issue negotiable bonds, notes, and other securities and obligations for any of the purposes specified in this article. The authority may authorize the bonds to finance a single project for several participating parties, a series of projects for a single participating party, a single project for several participating parties, or several projects for several participating parties. In anticipation of the sale of these bonds, the authority may issue negotiable bond anticipation notes and may renew these notes from time to time. These bond anticipation notes may be paid from the proceeds of sale of the bonds of the authority in anticipation for which they were issued. These notes, the agreements relating to the notes, and the resolution or resolutions authorizing these notes may contain any provisions, conditions, or limitations which a bond, agreement relating to the bond, and the bond resolutions of the authority, may contain. The note or renewal of the note shall mature within two years from the date of issue of the original note.

(b) Every issue of the authority's bonds are general obligations of the authority and are payable from any revenues or moneys of the authority available for this payment which is not otherwise pledged, unless otherwise expressly provided by the authority in an agreement with the holders of the bonds, which agreement pledges a specified source of revenues or moneys, or unless the authority has agreed otherwise with a participating party. Even if the bonds are payable from a special fund, they are, for all purposes, negotiable instruments and are subject only to the registered provisions of the bonds.

(c) The authority may issue bonds as serial bonds, as term bonds, or, as determined by the authority, as both types. The bonds shall be authorized by resolution of the authority, which resolution may provide for any of the following:

(1) The date or dates, time or times, when the bonds mature, which shall not exceed 30 years from their respective dates of issuance.

(2) The interest rate or rates of the bonds.

(3) The time or times when the bonds are payable.

(4) The denominations and forms of the bonds, including coupons or registered bonds.

(5) The registration privileges of the bonds.

(6) The execution of the bonds.

(7) The place or places where the bonds are payable in money of the United States of America.

(8) The terms of redemption of the bonds.

(d) The Treasurer shall sell the bonds within 60 days after receiving a certified copy of the authority's resolution authorizing the sale of the bonds, unless the authority adopts a resolution extending that 60-day period. The authority may, after considering the recommendations of the participating party to be assisted by the

bond proceeds, determine whether the bond sale is to be public or private and the price or prices and terms and conditions of the sale. Before the definitive bonds are prepared, the Treasurer may issue interim receipts, certificates, or temporary bonds which may be exchanged for the definitive bonds. The Treasurer may sell any bonds at a price below the par value thereof if the discount on any security so sold does not exceed 6 percent of the par value of the bond.

(e) Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds so authorized, specifying any of the following:

(1) Pledging the full faith and credit of the authority, or any other money of the authority, to secure the payment of the bonds or of any particular issue of bonds, subject to any existing agreements with the bondholders.

(2) The rentals, fees, purchase payments, loan repayments, and other charges to be charged, and the amounts to be raised in each year by these charges.

(3) Setting aside a reserve or sinking funds, and the regulation and disposition of the reserve or sinking funds.

(4) Limitations on the right of the authority, or its agent, to restrict and regulate the use of the project or projects financed out of the proceeds of the bonds or any particular issue of bonds.

(5) Limitations on the purpose to which the proceeds of sale of any issue of bonds, then or thereafter to be issued, may be applied, and pledging the proceeds to secure the payment of the bonds or any issue of the bonds.

(6) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds.

(7) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the total amount of bonds of which the holders must consent for this amendment or abrogation, and the manner in which this consent may be given.

(8) Limitations on the authority's expenditures for operating, administrative, or other expenses.

(9) Defining the acts, or omissions to act, which constitute a default in the duties of the authority towards the holders of its obligations and providing the rights and remedies of these holders if there is default.

(10) The mortgaging of any project and the project site for the purpose of securing the bondholders.

(11) The mortgaging of land, improvements, or other assets owned by a participating party for the purpose of securing the bondholders.

(12) Procedures for selecting the projects to be financed with the proceeds of the bonds authorized by the resolution, if the bonds are to be sold before the authority designates the projects and

participating parties to receive the financing.

(f) The members of the authority and any person executing the bonds are not liable personally on the bonds and are not subject to any personal liability or accountability by reason of the issuance of the bonds.

(g) The authority may purchase its bonds out of any funds available therefor, and may hold, pledge, cancel, or resell these bonds, subject to, and in accordance with, the agreements with the bondholders.

25392.16. The authority may, in its discretion, secure any bonds issued pursuant to this article by a trust agreement between the authority and a corporate trustee or trustees, which may include the treasurer, a trust company, or a bank having the powers of a trust company within or outside the state. The trust agreement or resolution providing for the issuance of the bonds may contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including those provisions which were included in the resolution or resolutions which authorized the bonds, if these provisions do not violate any law. Any bank or trust company doing business under the laws of the state which may act as a depository of the proceeds of bonds, revenues, or other moneys, may furnish the indemnifying bonds or pledge the securities which the authority may require. Any trust agreement may specify the rights and remedies of the bondholders and the trustee or trustees, and may restrict the individual right of action by the bondholders. Any trust agreement or resolution may also contain any other provision which the authority deems reasonable and proper for the security of the bondholders. Notwithstanding any other provision of law, the Treasurer does not have a conflict of interest by acting as a trustee pursuant to this article. All expenses incurred in carrying out the provisions of the trust agreement or resolution may be included as a part of the costs of the operation of a project.

25392.17. (a) Bonds issued pursuant to this article do not constitute a debt or liability of the state or of any political subdivision of the state, other than the authority, or a pledge of the faith and credit of the state or of any political subdivision, other than the authority, but are payable solely from the funds provided for the bond's repayment. All bonds shall contain on the face of the bond the following statement: "The faith and credit and the taxing power of the State of California is not pledged to the payment of the principal of, or interest on, this bond."

(b) The issuance of bonds pursuant to this article does not directly, indirectly, or contingently, obligate the state or any political subdivision of the state to levy or to pledge any form of taxation or to make any appropriation for their payment. This section does not prevent, and shall not be construed to prevent, the authority from pledging its full faith and credit to the payment of bonds or the issuance of bonds authorized pursuant to this article.

25392.18. (a) The authority may provide for the issuance of bonds of the authority to refund any bonds, notes, or other securities of the authority then outstanding, including paying any redemption premium thereon and any interest accrued, or to accrue, to the earliest or subsequent date of redemption, purchase, or maturity of these bonds. The authority may also issue refunding bonds to pay all, or any part of, the cost of constructing and acquiring additions, improvements, extension, or enlargements of a project or any portion of a project.

(b) The authority may use the proceeds of any bonds issued to refund outstanding bonds, notes, or other securities to purchase or retire the outstanding bonds, notes, or other securities at their maturity, or to redeem the outstanding bonds, notes, or other securities on the earliest date for redemption. The authority may place these proceeds in escrow to be used for a pending purchase, retirement at maturity, or redemption of, the outstanding bonds, notes, or other security, which will occur on the date determined by the authority, and until these proceeds are so used, the proceeds may be invested and reinvested by the Treasurer in obligations of, or guarantees by, the United States of America, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, if the certificates or time deposits mature at the time or times appropriate to assure the prompt payment of principal and income. The profits, if any, earned or realized on this investment may also be used for refunding the outstanding bonds. After the terms of the escrow have been fully satisfied, the balance of the proceeds and the interest, income, and profits, if any, earned or realized on the investments may be returned to the authority to be used in any lawful manner.

(c) The Treasurer may invest and reinvest that portion of the proceeds of any refunding bonds, which were issued to pay for all, or any part of, the cost of constructing and acquiring additions, improvements, extensions, or enlargements to a project, in obligations of, or guaranteed by, the United States of America, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, if the obligations or certificates mature at the time or times when the proceeds are needed for paying all or any part of these costs. The interest, income, and profits, if any, earned or realized on this investment may be applied to the payment of all, or any part of, the costs or may be used by the authority in any lawful manner.

(d) All refunding bonds issued pursuant to this section are subject to the requirements of this article in the same manner and to the same extent as are other bonds issued pursuant to this article.

25392.19. (a) Except as provided in subdivision (c), bonds issued by the authority pursuant to this article are legal investments for all trust funds, the funds of all insurance companies, commercial banks, savings banks, trust companies, savings and loan associations, and investment companies, for executors, administrators, trustees, and

other fiduciaries, for school funds, and for any funds which may be invested in county, municipal, or school district bonds.

(b) Except as provided in subdivision (c), bonds issued pursuant to this article are securities which may properly and legally be deposited with, and received by, any state or municipal officer or agency, city, county, or district, for any purpose for which the deposit of bonds or obligations of the state, is now, or may hereafter be, authorized by law, including deposits to secure public funds.

(c) Bonds issued pursuant to this article may not be used as specified in this section if the evidence of indebtedness or debt securities of the participating party receiving financing through the issuance of these bonds do not qualify or are not eligible for the uses specified in this section.

25392.20. (a) Except as provided in subdivision (b), the authority shall not incur liability beyond the extent to which moneys have been provided pursuant to this article.

(b) The authority may borrow money, as needed, from any other revenue bond issuing authority to meet the necessary expenses of initial organization and operation until the authority derives revenues or proceeds from bonds issued pursuant to this article. The authority shall repay this borrowed money, with interest, within a reasonable time after the authority receives revenues or proceeds from bonds issued pursuant to this article.

(c) If the authority holds title to a project or property acquired by or for the authority pursuant to this article, the authority shall not be required to pay any property taxes or assessments upon, or in respect to, that project or property, or upon the income from the project or property or facilities comprised in the project.

25392.21. Subject to the limitations stated in Section 25392.23, the Legislature may terminate the existence of the authority or alter or limit the powers of the authority. Upon dissolution of the authority, the title to all properties owned by it shall, subject to the interests of any participating parties therein, vest in, and become the property of, the state and shall not inure to the benefit of any private party.

25392.22. (a) The Legislature hereby finds and declares that this article provides a complete, additional, and alternative method to do those things authorized by this article, and is supplemental, and additional to, any powers conferred by any other law.

(b) The issuance of bonds and refunding bonds pursuant to this article is exempt from the requirements of any other law applicable to the issuance of bonds.

(c) Except as specified in this article, the construction and acquisition of a project by the authority pursuant to this article is exempt from any other law applicable to the construction of public works.

25392.23. (a) Except as provided in subdivision (b), the State of California pledges to the holders of any obligations issued pursuant to this article, and with those parties who may enter into contract with the authority pursuant to this article, that the state will not limit

or alter the powers given the authority until these obligations, and the interest thereon, are fully met and discharged and the contracts are fully performed on the part of the authority.

(b) Subdivision (a) does not prohibit the state from altering or limiting the powers of the authority if adequate provision is made to protect the holders of the obligations of the authority.

(c) The authority, as agent for the state, may include the pledge and undertaking specified in this section in the obligations or contracts made pursuant to this article.

25392.24. The powers granted to the authority pursuant to this article may be exercised without regard or reference to any other department or agency of the state. All other general or special laws, or parts thereof, which are inconsistent with this article are not applicable to this article. Nothing contained in this article shall be interpreted to exempt employment practices, contracting of services, construction, or acquisition of any project by any participating party from compliance with all applicable local, state, or federal laws and regulations.

25392.25. The authority may receive and utilize grants or loans from the federal government, a public agency, or from any other source, for carrying out this article.

CHAPTER 1461

An act to amend Section 13382 of the Water Code, and to amend Item 3940-101-001 of the Budget Act of 1984, relating to water quality, and making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 13382 of the Water Code is amended to read:

13382. Waste discharge requirements shall be adopted to control the disposal of pollutants into wells or in areas where pollutants may enter into a well from the surrounding groundwater.

SEC. 2. Item 3940-101-001 of the Budget Act of 1984 (Chapter 258 of the Statutes of 1984) is amended to read:

3940-101-001—For local assistance, State Water Resources Control Board, for the San Diego Treatment Facility to be used as a match for federal funds to address the sewage problem in the Tijuana River	5,500,000
Provisions:	
1. Except as provided in paragraph (5), the funds	

appropriated in this item shall be used for the initial phase of construction of a sewage treatment facility to handle raw sewage entering the United States from Tijuana. The State Water Resources Control Board shall determine what costs are included in the initial phase of construction, and these costs shall include, but not be limited to, site acquisition and preliminary engineering. All funds appropriated in this item shall be attributed to any federal match required by federal participation in the project.

2. The funds appropriated in this item shall only be used if the Department of Finance determines that no other funding is available for the same purpose.
3. State participation in this first phase of solving the pollution problem in the Tijuana River is intended as a one-time effort to protect the health of the people of the state and should not be construed as a commitment of any continued state participation in any additional solutions to this international problem.
4. Funds made available from this item shall be repaid from the proceeds of bonds sold pursuant to the Clean Water Bond Law of 1984 if the Clean Water Bond Law of 1984 authorizes the expenditure of bond proceeds for the purpose of this item and the bond law is approved by the electorate at the November 6, 1984, general election.
5. Notwithstanding paragraph (1), the amount of one hundred thirty-five thousand dollars ($135,000) of the sum appropriated by this item is reappropriated for and shall be available for expenditure for purposes of continuing the testing of the Coordinate Chemical Bonding Absorption Process currently being conducted at the Santee Lakes Reclamation Facility, for the purpose of determining the feasibility of removing the high concentration of metals, toxics, and other pollutants from sewage in the Tijuana River.

CHAPTER 1462

An act to amend Sections 4201, 4227, 4250, 4327, 4357, and 4405 of the Water Code, relating to water, and making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 4201 of the Water Code is amended to read:

4201. One-half of the cost of administration of a service area and the distribution of water therein shall be paid by the state and one-half shall be paid by the owners of the rights to divert or store water within the service area as provided in this chapter.

SEC. 2. Section 4227 of the Water Code is amended to read:

4227. The statement shall also contain an apportionment of one-half of the amount of the budget among the owners of the various rights to store or divert within the service area.

SEC. 3. Section 4250 of the Water Code is amended to read:

4250. As used in this article, "owners expense" means one-half of the total amount of the budget for the service area.

SEC. 4. Section 4327 of the Water Code is amended to read:

4327. The statement shall be submitted on or before the first day of September of the year preceding that for which it is made and shall apportion one-half the amount of the budget therein contained to the association.

SEC. 5. Section 4357 of the Water Code is amended to read:

4357. One-half of the expenditures for the supervision of the distribution of water in any service area shall be paid from that portion or account of the Water Resources Revolving Fund credited on the department's books to that service area, upon claims approved by the department and otherwise audited and approved as may be required in the case of other claims against the state.

SEC. 6. Section 4405 of the Water Code is amended to read:

4405. One-half of the cost of the work to be performed by the department in rendering watermaster service and incidental duties required under the order or decree shall be paid by the state and one-half shall be paid by the owners and deposited by the department as received from the respective owners.

SEC. 7. The sum of eighty-six thousand dollars ($86,000) is hereby appropriated from the General Fund to the Department of Water Resources for costs incurred pursuant to this act.

CHAPTER 1463

An act to amend Section 4701 of the Civil Code, to amend Section 4903 of, and to add Section 138.5 to, the Labor Code, and to add Section 11478.6 to the Welfare and Institutions Code, relating to child support, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 4701 of the Civil Code is amended to read:

4701. (a) In any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, the court may order either parent or both parents to assign to the county clerk, probation officer, or other officer of the court or county officer designated by the court to receive the payment, that portion of salary or wages of either parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. The order shall operate as an assignment and shall be binding upon any existing or future employer of the defaulting parent upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.

(b) (1) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, upon a petition signed under penalty of perjury by the person or county officer to whom support has been ordered to have been paid that the parent so ordered is in arrears in payment in a sum equal to the amount of one month of the payment within the 24-month period immediately preceding filing of the petition with the court, the court shall issue without notice to the parent ordered to pay support an order requiring the parent ordered to pay support to assign either to the person to whom support has been ordered to have been paid or to a county officer designated by the court to receive the payment, that portion of the salary or wages of the parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the parent ordered to pay support upon whom a copy of the order is served.

The petition shall state the number of previous times a petition for assignment has been filed pursuant to this subdivision and the county in which any such petition was filed.

(2) No petition shall be accepted for filing pursuant to this subdivision unless it contains a declaration stating that the parent, or

any other person designated pursuant to subdivision (a), to whom support has been ordered to be paid has given the parent ordered to pay support a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the petition. A written notice of intent to seek a wage assignment may be given at the time of filing a petition or complaint for support or at any time subsequent thereto. In addition to any other penalty provided by law, the filing of a petition with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure. The parent ordered to pay support may at any time waive the written notice required by this subdivision.

(3) The parent to whom support has been ordered to be paid shall notify the court and the employer of the parent ordered to pay support, by any form of mailing requiring a return receipt, of any change of address within a reasonable period of time after any such change. In instances in which payments have been ordered to be made to a county officer designated by the court, the parent to whom support has been ordered to be paid shall notify the court and the county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after any such change. If the employer or county officer is unable to deliver payments under the assignment for a period of six months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address, the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

(4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an employer.

(5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the parent ordered to pay support.

(6) A parent alleged to be in default may move to quash an assignment order issued under this subdivision within 10 days after service on the parent of notice of the assignment order by his or her employer if the parent states under oath that a default in the amount alleged in the petition has not occurred within the 24-month period referred to in the petition or that the amount is not owed. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the parent of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class

mail within five days after receipt of the notice of motion.

(7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted.

(8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.

(9) For purposes of this subdivision, arrearages of payment shall be computed on the basis of the payments owed and unpaid on the date that the parent ordered to pay support has been given notice of the order of assignment and the fact that the parent ordered to pay support may have subsequently paid the arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

(10) Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision upon proof of full payment pursuant to the wage assignment for the appropriate period of time, as follows:

(A) An assignment pursuant to this subdivision pursuant to an initial petition shall continue until support payments are current.

(B) An assignment under this subdivision pursuant to a second petition filed within 24 months shall continue for 24 months.

(C) An assignment under this subdivision pursuant to a third or subsequent petition filed within 48 months shall not be terminated unless upon a petition by the parent ordered to pay support the court determines that there is good cause to terminate the assignment.

Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision if the employer or county officer has been unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court.

(d) The employer shall cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the child support obligation.

(e) No employer shall use any assignment authorized by this section as grounds for the dismissal of that employee.

(f) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(g) On declaration or affidavit of the parent to whom support has been ordered to be paid to the court that: (1) the parent ordered to make support payments is in default in such payment in the amount specified in subdivision (b), and (2) the whereabouts of the defaulting parent or the identity of his or her employer are unknown to the parent to whom support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent parent and the name and address of the absent parent's last known employer. The court shall then order the defaulting parent to make support payments pursuant to subdivision (b).

(h) Nothing in this section shall limit the authority of the district attorney to utilize any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial parent receives welfare moneys.

(i) The provisions of this section apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that such money and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(j) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in the order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of that fact to the parties, and any agency through whom payments have been ordered under Section 4702. These moneys shall be subject to any procedure available to enforce an order for child support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice of receipt is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting parent. A court shall not directly or indirectly condition the issuance, modification, or termination of, or condition the terms or conditions of, any order for the support of a minor child upon the issuance of such a request by such an employee.

(k) Notwithstanding subdivisions (a) and (b), in any case where support is ordered to be paid through the county clerk, probation officer, or other officer of the court or county officer designated by the court for those purposes, or where the district attorney requests,

the court shall order a wage assignment pursuant to this section.

(*l*) In any case where support for a minor child is ordered to be paid through the county clerk, probation officer, or other officer of the court or county officer designated by the court for that purpose, and where support is being paid on behalf of a minor child not receiving public assistance pursuant to the Burton-Miller Act (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the county shall forward the support received to the minor child's custodial parent within seven days of receipt.

(m) This section shall remain in effect only until January 1, 1987, and as of such date is repealed.

SEC. 1.5. Section 4701 of the Civil Code is amended to read:

4701. (a) In any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, the court may order either parent or both parents to assign to the county clerk, probation officer, or other officer of the court or county officer designated by the court to receive the payment, that portion of salary or wages of either parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. The order shall operate as an assignment and shall be binding upon any existing or future employer of the defaulting parent upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.

(b) (1) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, upon a petition signed under penalty of perjury by the person or county officer to whom support has been ordered to have been paid that the parent so ordered is in arrears in payment in a sum equal to the amount of one month of the payment within the 24-month period immediately preceding filing of the petition with the court, the court shall issue without notice to the parent ordered to pay support an order requiring the parent ordered to pay support to assign either to the person to whom support has been ordered to have been paid or to a county officer designated by the court to receive the payment, that portion of the salary or wages of the parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the parent ordered to pay support upon whom a copy of the order is served.

The petition shall state the number of previous times a petition for assignment has been filed pursuant to this subdivision and the county in which any such petition was filed.

(2) No petition shall be accepted for filing pursuant to this subdivision unless it contains a declaration stating that the parent, or any other person designated pursuant to subdivision (a), to whom

support has been ordered to be paid has given the parent ordered to pay support a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the petition. A written notice of intent to seek a wage assignment may be given at the time of filing a petition or complaint for support or at any time subsequent thereto. In addition to any other penalty provided by law, the filing of a petition with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure. The parent ordered to pay support may at any time waive the written notice required by this subdivision.

(3) The parent to whom support has been ordered to be paid shall notify the court and the employer of the parent ordered to pay support, by any form of mailing requiring a return receipt, of any change of address within a reasonable period of time after any such change. In instances in which payments have been ordered to be made to a county officer designated by the court, the parent to whom support has been ordered to be paid shall notify the court and the county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after any such change. If the employer or county officer is unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address, the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

(4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an employer.

(5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the parent ordered to pay support.

(6) A parent alleged to be in default may move to quash an assignment order issued under this subdivision within 10 days after service on the parent of notice of the assignment order by his or her employer if the parent states under oath that a default in the amount alleged in the petition has not occurred within the 24-month period referred to in the petition or that the amount is not owed. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the parent of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class mail within five days after receipt of the notice of motion.

(7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted.

(8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.

(9) For purposes of this subdivision, arrearages of payment shall be computed on the basis of the payments owed and unpaid on the date that the parent ordered to pay support has been given notice of the order of assignment and the fact that the parent ordered to pay support may have subsequently paid the arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

(10) Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision upon proof of full payment pursuant to the wage assignment for the appropriate period of time, as follows:

(A) An assignment pursuant to this subdivision pursuant to an initial petition shall continue until support payments are current.

(B) An assignment under this subdivision pursuant to a second petition filed within 24 months shall continue for 24 months.

(C) An assignment under this subdivision pursuant to a third or subsequent petition filed within 48 months shall not be terminated unless upon a petition by the parent ordered to pay support the court determines that there is good cause to terminate the assignment.

Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision if the employer or county officer has been unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court.

(d) The employer shall cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the child support obligation.

(e) No employer shall use any assignment authorized by this section as grounds for the dismissal of that employee.

(f) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(g) On declaration or affidavit of the parent to whom support has

been ordered to be paid to the court that: (1) the parent ordered to make support payments is in default in such payment in the amount specified in subdivision (b), and (2) the whereabouts of such defaulting parent or the identity of his or her employer are unknown to the parent to whom support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent parent and the name and address of the absent parent's last known employer. The court shall then order the defaulting parent to make support payments pursuant to subdivision (b).

(h) Nothing in this section shall limit the authority of the district attorney to utilize any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial parent receives welfare moneys.

(i) The provisions of this section apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that such money and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(j) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in that order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of that fact to the parties, and any agency through whom payments have been ordered under Section 4702. These moneys shall be subject to any procedure available to enforce an order for child support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice of receipt is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting parent. A court shall not directly or indirectly condition the issuance, modification, or termination of, or condition the terms or conditions of, any order for the support of a minor child upon the issuance of such a request by such an employee.

(k) Notwithstanding subdivisions (a) and (b) in any case where support is ordered to be paid through the county clerk, probation officer, or other officer of the court or county officer designated by the court for those purposes, or where the district attorney requests, the court shall order a wage assignment pursuant to this section.

(*l*) In any case where support for a minor child is ordered to be paid through the county clerk, probation officer, or other officer of the court or county officer designated by the court for that purpose, and where support is being paid on behalf of a minor child not receiving public assistance pursuant to the Burton-Miller Act (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the county shall forward the support received to the minor child's custodial parent within seven days of receipt.

(m) This section shall become operative on January 1, 1987.

SEC. 2. Section 138.5 is added to the Labor Code, to read:

138.5. The Division of Industrial Accidents shall cooperate in the enforcement of child support obligations. At the request of the Director of Social Services, the administrative director shall assist in providing to the State Department of Social Services information concerning persons who are receiving permanent disability benefits or who have filed an application for adjudication of a claim which the Director of Social Services determines is necessary to carry out its responsibilities pursuant to Section 11478.6 of the Welfare and Institutions Code.

The process of sharing information with regard to applicants for and recipients of permanent disability benefits required by this section shall be known as the Workers' Compensation Notification Project.

SEC. 2.5. Section 4903 of the Labor Code is amended to read:

4903. The appeals board may determine, and allow as liens against any sum to be paid as compensation, any amount determined as hereinafter set forth in subdivisions (a) through (i). If more than one such lien be allowed, the appeals board may determine the priorities, if any, between the liens allowed. The liens which may be allowed hereunder are as follows:

(a) A reasonable attorney's fee for legal services pertaining to any claim for compensation either before the appeals board or before any of the appellate courts, and the reasonable disbursements in connection therewith.

(b) The reasonable expense incurred by or on behalf of the injured employee, as provided by Article 2 (commencing with Section 4600) of Chapter 2 of Part 2.

(c) The reasonable value of the living expenses of an injured employee or of his or her dependents, subsequent to the injury.

(d) The reasonable burial expenses of the deceased employee, not to exceed the amount provided for by Section 4701.

(e) The reasonable living expenses of the spouse or minor children of the injured employee, or both, subsequent to the date of the injury, where the employee has deserted or is neglecting his or her family. These expenses shall be allowed in such proportion as the appeals board deems proper, under application of the spouse, guardian of the minor children, or the assignee, pursuant to subdivision (a) of Section 11477 of the Welfare and Institutions Code,

of the spouse, a former spouse, or minor children.

(f) The amount of unemployment compensation disability benefits which have been paid under or pursuant to the Unemployment Insurance Code in those cases where, pending a determination under Division 4 of this code, there was uncertainty whether such benefits were payable under the Unemployment Insurance Code or payable hereunder; provided, however, that any lien under this subdivision shall be allowed and paid as provided in Section 4904.

(g) The amount of unemployment compensation benefits and extended duration benefits paid to the injured employee for the same day or days for which he or she receives, or is entitled to receive, temporary total disability indemnity payments under this division; provided, however, that any lien under this subdivision shall be allowed and paid as provided in Section 4904.

(h) The amount of indemnification granted pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code.

(i) The amount of compensation, including expenses of medical treatment, and recoverable costs which have been paid by the Asbestos Workers' Account pursuant to the provisions of Chapter 11 (commencing with Section 4401) of Part 1.

SEC. 3. Section 11478.6 is added to the Welfare and Institutions Code, to read:

11478.6. To assist local agencies in child support enforcement activities, the department shall operate a workers' compensation notification project based on information received pursuant to Section 138.5 of the Labor Code or any other source of information.

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

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

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to effectuate necessary changes in child support enforcement programs as soon as possible, it is necessary that this act go into immediate effect.

CHAPTER 1464

An act to add Chapter 9.1 (commencing with Section 9750) to Division 8.5 of the Welfare and Institutions Code, relating to elderly persons, and making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Chapter 9.1 (commencing with Section 9750) is added to Division 8.5 of the Welfare and Institutions Code, to read:

CHAPTER 9.1. HEALTH INSURANCE COUNSELING AND ADVOCACY PROGRAM

9750. The department, in consultation with the commission, shall establish a statewide Health Insurance Counseling and Advocacy Program to provide Medicare beneficiaries with counseling and advocacy in Medicare, private health insurance, and related health care coverage plans.

9751. The department, in consultation with the commission, shall do all of the following:

(a) Act as a clearinghouse for information and materials relating to Medicare and health insurance by convening a committee of representatives from various private and public agencies to gather information and design materials for use by participants in the program, and to advise the department on modifications to the materials or program. The members of this committee shall include representatives from the following entities:

(1) The commission.

(2) The Department of Insurance.

(3) The State Department of Health Services.

(4) The Legal Services Section of the State Bar.

(5) Direct-service organizations with experience in providing Medicare and health insurance counseling and legal advocacy.

The committee shall be composed of 11 members, with a majority of members from organizations described in paragraph (5). Committee members shall be reimbursed for expenses, as specified by the department. The committee shall be authorized to meet until January 1, 1986, and as of that date shall go out of existence.

(b) Develop additional information and materials relating to Medicare and health insurance, as necessary.

(c) Provide minimum standards and materials for training volunteer counselors.

(d) Provide technical assistance to contracting agencies.

(e) Request proposals and select contractors to serve as counseling coordinators and providers of legal representation.

9752. The department shall, in consultation with the commission, select contractors and administer the program according to the following standards:

(a) The department shall issue requests for proposals containing the proposed terms of the service contracts.

(b) Each contract shall define a geographic region to be served by the contractor, and the department shall attempt to provide contracted services to as great a number of Medicare beneficiaries in the state as possible.

(c) Agencies may contract to provide counseling services, legal services, or both. In the event that separate contractors are to provide legal and counseling services in a given area, the department shall assure that a formal system of referral is established between the agencies so that the services of either agency can be called upon as needed.

(d) Agencies providing free legal services to the elderly and organizations which have conducted Medicare and health insurance counseling or advocacy programs shall receive preference in the selection of contractors to the extent that they can demonstrate the ability to meet the requirements of the department's request for proposal.

9753. Contracting agencies selected pursuant to this chapter shall provide the services specified in subdivisions (a), (b), and (c); the services specified in subdivisions (a), (b), (c), and (d); or the services specified in subdivision (d).

(a) Provide community education.

(b) Recruit, train, and coordinate health insurance counselors.

(c) Assist individuals and provide informal advocacy with respect to Medicare and health insurance benefits claims.

(d) Provide legal representation with respect to Medicare appeals and related health insurance problems, subject to the understanding that legal representation and legal advocacy with respect to health insurance matters as defined in this chapter shall not include the filing of lawsuits against private insurers.

9754. Counselors shall not engage in the solicitation of insurance sales.

9755. Participants who volunteer their time for health insurance counseling may be reimbursed for expenses incurred, as specified by the department.

9756. The department shall issue a report to the Legislature in January, 1986, and annually thereafter, detailing the expenditure of the funds appropriated for the purposes of this chapter, and the savings realized by the state and Medicare beneficiaries through the program.

SEC. 2. The sum of four hundred twenty-five thousand dollars ($425,000) is hereby appropriated from the General Fund to the Department of Aging for the purposes of this act for the 1984–85 fiscal year.

CHAPTER 1465

An act to amend Section 14123 of, and to add Section 14107.4 to, the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 14123 of the Welfare and Institutions Code is amended to read:

14123. Participation in the Medi-Cal program by a provider of service is subject to suspension in order to protect the health of the recipients and the funds appropriated to carry out this chapter.

(a) The director may suspend a provider of service from further participation under the Medi-Cal program for violation of any provision of this chapter or Chapter 8 (commencing with Section 14200) or any rule or regulation promulgated by the director pursuant to those chapters. Any such suspension may be for an indefinite or specified period of time and with or without conditions or may be imposed with the operation of the suspension stayed or probation granted. The director shall suspend a provider of service for conviction of any felony or any misdemeanor involving fraud, abuse of the Medi-Cal program or any patient, or otherwise substantially related to the qualifications, functions, or duties of a provider of service.

If the provider of service is a clinic, group, corporation, or other association, conviction of any officer, director, or shareholder with a 10 percent or greater interest in that organization, of such a crime shall result in the suspension of that organization and the individual convicted if the director believes that suspension would be in the best interest of the Medi-Cal program. If the provider of services is a political subdivision of the state or other government agency, the conviction of the person in charge of the facility of such a crime may result in the suspension of that facility. The record of conviction or a certified copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of the fact that the conviction occurred. A plea or verdict of guilty, or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

After conviction but before the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, the director, if he or she believes that suspension would be in the best interests of the Medi-Cal program, may order the suspension of a provider of service. When the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence irrespective of any subsequent order under Section 1203.4 of the

Penal Code allowing a person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment, the director shall order the suspension of a provider of service. The suspension shall not take effect earlier than the date of the director's order. Suspension following a conviction is not subject to the proceedings required in subdivision (c). However, the director may grant an informal hearing at the request of the provider of service to determine in the director's sole discretion if the circumstances surrounding the conviction justify rescinding or otherwise modifying the suspension provided for in this subdivision.

If the provider of service appeals the conviction and the conviction is reversed, the provider may apply for reinstatement to the Medi-Cal program after the conviction is reversed. Notwithstanding Section 14126.6, the application for reinstatement shall not be subject to the one-year waiting period for the filing of a reinstatement petition pursuant to Section 11522 of the Government Code.

(b) Whenever the director receives written notification from the Secretary of the United States Department of Health and Human Services, that a physician or other individual practitioner has been suspended from participation in the Medicare or Medicaid programs, the director shall, promptly suspend the practitioner from participation in the Medi-Cal program. This automatic suspension is not subject to the proceedings required in subdivision (c). No payment from state or federal funds may be made for any item or service rendered by the practitioner during the period of suspension.

(c) The proceedings for suspension shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that hearings may be conducted by departmental hearing officers appointed by the director. The director may periodically subcontract with the Office of Administrative Hearings to conduct the hearings. The director may temporarily suspend any provider of service prior to any hearing when in his or her opinion that action is necessary to protect the public welfare or the interests of the Medi-Cal program. The director shall notify the provider of service of the temporary suspension and the effective date thereof and at the same time serve the provider with an accusation. The accusation and all proceedings thereafter shall be in accordance with the sections of the Government Code specified in this subdivision. Upon receipt of a notice of defense by the provider, the director shall set the matter for hearing within 30 days after receipt of the notice. The temporary suspension shall remain in effect until such time as the hearing is completed and the director has made a final determination on the merits. The temporary suspension shall, however, be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

(d) The suspension by the director of any provider of service shall preclude the provider from submitting claims for payment, either

personally or through claims submitted by any clinic, group, corporation, or other association to the Medi-Cal program for any services or supplies the provider has provided under the program, except for services or supplies provided prior to the suspension. No clinic, group, corporation, or other association which is a provider of service shall submit claims for payment to the Medi-Cal program for any services or supplies provided by a person within the organization who has been suspended or revoked by the director, except for services or supplies provided prior to the suspension.

Where the provisions of this chapter or Chapter 8 (commencing with Section 14200) or the regulations promulgated by the director are violated by a provider of service which is a clinic, group, corporation, or other association, the director may suspend the organization and any individual person within the organization who is responsible for the violation.

(e) Notice of the suspension shall be sent by the director to the provider's state licensing, certifying, or registering authority, along with the evidence upon which the suspension was based.

SEC. 2. Section 14107.4 is added to the Welfare and Institutions Code, to read:

14107.4. (a) Any person who, with the intent to defraud, certifies as true and correct any cost report, submitted by a hospital to a state agency for reimbursement pursuant to Section 14170, who knowingly fails to disclose in writing on the cost report any significant beneficial interest, as defined in subdivision (d), which the owners of the provider, or members of the provider governing board, or employees of the provider, or independent contractor of the provider, have in the contractors or vendors to the providers, is guilty of a public offense.

(b) Any person who, with the intent to defraud, knowingly causes any material false information to be included in any cost report submitted by a hospital to a state agency for reimbursement pursuant to Section 14170 shall be guilty of an offense punishable by imprisonment in the state prison, or by a fine not exceeding ten thousand dollars ($10,000), or by a fine and imprisonment, or by imprisonment in the county jail not exceeding one year, or by a fine not exceeding five thousand dollars ($5,000), or by both a fine and imprisonment.

(c) The provider's chief executive officer shall certify that any cost report submitted by a hospital to a state agency for reimbursement pursuant to Section 14170 shall be true and correct. In the case of a hospital which is operated as a unit of a coordinated group of health facilities and under common management, either the hospital's chief executive officer or administrator, or the chief financial officer of the operating region of which the hospital is a part, shall certify to the accuracy of the report.

(d) As used in this section, "significant beneficial interest" means any financial interest that is equal to or greater than twenty-five thousand dollars ($25,000) of ownership interest or 5 percent of the

whole ownership or any other contractual or compensatory arrangement with vendors or contractors or immediate family members of vendors or contractors. "Immediate family" means spouse, son, daughter, father, mother, father-in-law, mother-in-law, daughter-in-law, or son-in-law. Interests held by these persons specified in subdivision (a) and members of these person's immediate family should be combined and included as a single interest.

(e) Any person who violates the provisions of subdivision (a) is punishable by imprisonment in the county jail for a period not to exceed one year or in the state prison, or by fine not to exceed five thousand dollars ($5,000), or by both such fine and imprisonment.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1466

An act to add Section 14087.52 to the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 14087.52 is added to the Welfare and Institutions Code, to read:

14087.52. It is necessary that a special commission be established in San Bernardino County in order to meet the problems of the delivery of publicly assisted medical care in the county and to demonstrate ways of promoting quality care and cost efficiency. Because there is no general law under which such a commission could be formed, the adoption of a special act and the formation of a special commission is required.

The Board of Supervisors of San Bernardino County may, by ordinance, establish a commission to negotiate the exclusive contract specified in Section 14087.5 and to arrange for the provision of health care services provided pursuant to this chapter. If the board of supervisors elects to enact this ordinance, all rights, powers, duties, privileges, and immunities vested in a county by this article shall be vested in the county commission. Any reference in this article to

"county" shall mean the commission established pursuant to this section.

It is the intent of the Legislature that if such a commission is formed, the County of San Bernardino shall, with respect to its medical facilities and programs, occupy no greater or lesser status than any other health care provider in negotiating with the commission for contracts to provide health care services.

The enabling ordinance shall specify the membership of the county commission, the qualifications for individual members, the manner of appointment, selection, or removal of commissioners, and how long they shall serve, and any other matters as the board of supervisors deems necessary or convenient for the conduct of the county commission's activities. The commission so established shall be considered an entity separate from the county, shall file the statement required by Section 53051 of the Government Code, and shall have, in addition to the rights, powers, duties, privileges, and immunities previously conferred, the power to acquire, possess, and dispose of real or personal property, as may be necessary for the performance of its functions, to employ personnel and contract for services required to meet its obligations, and to sue or be sued. Any obligations of the commission, statutory, contractual, or otherwise, shall be the obligations solely of the commission and shall not be the obligations of the county or of the state unless expressly provided for in a contract between the commission and the county or state.

Upon creation, the commission may borrow from the county, and the county may lend the commission funds, or issue revenue anticipation notes to obtain those funds necessary to commence operations.

In the event the commission may no longer function for the purposes for which established, at such time as the commission's then existing obligations have been satisfied or the commission's assets have been exhausted, the board of supervisors may by ordinance terminate the commission.

Prior to the termination of the commission, the board of supervisors shall notify the State Department of Health Services of its intent to terminate the commission. The department shall conduct an audit of the commission's records within 30 days of notification to determine the liabilities and assets of the commission. The department shall report its findings to the board within 10 days of completion of the audit. The board shall present a plan to resolve all liabilities of the commission to the department within 30 days upon receipt of these findings.

Notwithstanding the other provisions of this section, upon termination of the commission by the board, the County of San Bernardino shall be responsible for any liabilities of the commission until superseded by a department approved plan.

Any assets of the commission shall be disposed of pursuant to provisions contained in the contract entered into between the state and the commission pursuant to this article.

SEC. 2. Notwithstanding Section 66 of Chapter 268 of the Statutes of 1984, for the 1984–85 fiscal year, providers of orthotics and prosthetics under the Medi-Cal program shall receive a reimbursement rate cost-of-living increase of 8 percent above the levels in effect on June 30, 1984. This increase is in replacement of, and not in addition to, the increase which providers of orthotics and prosthetics would otherwise receive under Section 66 of Chapter 268 of the Statutes of 1984. The increase provided for in this section shall become effective commencing on the effective date of this act.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that Medi-Cal beneficiaries are able to receive essential health care services, it is necessary that this act go into immediate effect.

CHAPTER 1467

An act to amend Section 6359.45 of, and to add Section 17800 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 6359.45 of the Revenue and Taxation Code is amended to read:

6359.45. (a) Any vending machine operator which is a nonprofit, charitable, or educational organization is a consumer of, and shall not be considered a retailer of, tangible personal property which sells at retail for fifteen cents ($0.15) or less and which is actually sold through a vending machine.

(b) Any library district, municipal library, or county library and any vendor making sales pursuant to a contract with a library district, municipal library, or county library is a consumer of, and shall not be considered a retailer of, photocopies which it sells at retail and which are actually sold through a coin-operated copy machine located at a library facility.

SEC. 2. Section 17800 is added to the Revenue and Taxation Code, to read:

17800. Section 692(c) of the Internal Revenue Code, as added by Public Law 98-259, shall be applicable in the computation of taxes for taxable years beginning on or after January 1, 1984.

SEC. 3. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act, and the state

shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, Section 1 of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

CHAPTER 1468

An act to amend Sections 6359.45 and 6368.2 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 6359.45 of the Revenue and Taxation Code is amended to read:

6359.45. (a) Any vending machine operator which is a nonprofit, charitable, or educational organization is a consumer of, and shall not be considered a retailer of, tangible personal property which sells at retail for fifteen cents ($0.15) or less and which is actually sold through a vending machine.

(b) Any library district, municipal library, or county library and any vendor making sales pursuant to a contract with a library district, municipal library, or county library is a consumer of, and shall not be considered a retailer of, photocopies which it sells at retail and which are actually sold through a coin-operated copy machine located at a library facility.

SEC. 2. Section 6368.2 of the Revenue and Taxation Code is amended to read:

6368.2. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, diesel fuel used in operating watercraft in commercial deep sea fishing operations or commercial passenger fishing boat operations by persons who are regularly engaged in the business of commercial deep sea fishing or commercial passenger fishing boat operations outside the territorial waters of this state.

(b) For purposes of this section, it shall be rebuttably presumed that a person is not regularly engaged in the business of commercial deep sea fishing or the operation of a commercial passenger fishing boat if the person has gross receipts from these operations of less than five thousand dollars ($5,000) a year.

(c) "Commercial passenger fishing boat operations" means the business of permitting, for profit, any person to fish from the

operator's boat or vessel.

(d) This section shall become operative on October 1, 1984, and shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends that date.

SEC. 3. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, Section 1 of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

CHAPTER 1469

An act to amend and repeal Section 15202 of the Government Code, relating to trials.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 15202 of the Government Code is amended to read:

15202. (a) A county with a population of 300,000 or less, at the time of the 1980 decennial census, which is responsible for the cost of a trial or trials or any hearing of a person for the offense of homicide may apply to the Controller for reimbursement of 90 percent of the costs incurred by the county for each such trial or hearing, without regard to fiscal year, in excess of the amount of money derived by the county from a tax of 0.00625 of 1 percent of the full value of property assessed for purposes of taxation within the county.

(b) A county with a population exceeding 300,000 at the time of the 1980 decennial census which is responsible for the cost of a trial or trials or any hearing of a person for the offense of homicide may apply to the Controller for reimbursement of 80 percent of the costs incurred by the county in excess of the amount of money derived by the county from a tax of 0.00625 of 1 percent, and not in excess of the amount of money derived from a tax of 0.0125 of 1 percent, and for reimbursement of 100 percent of the costs incurred in excess of the amount of money derived from a tax of 0.0125 percent, of the full value of property assessed for purposes of taxation within the county.

(c) The Controller shall not reimburse any county for costs that exceed the standards for travel and per diem expenses set forth in

Sections 700 to 715, and 718, of Title 2 of the California Administrative Code. The Controller may reimburse extraordinary costs in unusual cases if the county provides sufficient justification of the need for such expenditures.

(d) The Legislature recognizes that the conduct of trials for persons accused of homicide should not be hampered or delayed because of a lack of funds available to the counties for that purpose. While this section is intended to provide an equitable basis for determining the allocation to the state of the costs of homicide trials in any particular county, the rising costs of those trials necessitate an objective study to assure reasonable financial restraints and incentives for cost-effectiveness that do not place an unreasonable burden on the treasury of the smaller counties.

In order to assist the Governor and the Legislature in making that determination, the Office of Planning and Research, in cooperation with the Legislative Analyst, state and local agencies, representatives of law enforcement and the defense bar, and other public officials, shall undertake a study of the effectiveness of this section with regard to those concerns, and, no later than July 1, 1987, shall submit a report to the Governor and to the Legislature with its findings and any recommendations for amendment of this section.

SEC. 2. Section 1 of this act applies to any case in which a final judgment was not entered prior to January 1, 1985. Section 1 shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1989, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1989, pursuant to Section 9611 of the Government Code, Section 15202 of the Government Code, as amended by Section 46 of Chapter 323 the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

CHAPTER 1470

An act making an appropriation for land acquisition, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. The sum of two hundred ninety-five thousand dollars ($295,000) is hereby appropriated from the General Fund to the Department of Water Resources for payment of costs of land acquisition, in settlement of a judgment in eminent domain in case No. 70981 of the Superior Court in and for the County of Butte, for the Feather River Enhancement Project authorized pursuant to

Chapter 1 (commencing with Section 12250) of Part 4.7 of Division 6 of the Water Code.

SEC. 2. (a) The sum of five million six hundred ninety-seven thousand dollars ($5,697,000) is hereby appropriated from the moneys available for allocation pursuant to Section 6217 of the Public Resources Code, after the obligations provided for in subdivisions (a), (b), (c), and (d), of Section 6217 have been met and prior to any other allocations provided for in Section 6217, to be allocated as follows:

(1) Five million ten thousand dollars ($5,010,000) to the Wildlife Conservation Board for the acquisition of the real property which is the subject of litigation entitled Lake Country Estates, Inc., et al, v. Tahoe Regional Planning Agency, et al. (United States District Court for the Eastern District of California, No. CV-F-81-127-REC) and Lake Country Estates, Inc., et al. v. California Tahoe Regional Planning Agency, et al. (United States District Court for the Eastern District of California, No. CV-F-81-132-REC).

(2) Six hundred eighty-seven thousand dollars ($687,000) to the Department of Parks and Recreation, six hundred sixty-seven thousand dollars ($667,000) of which shall be for restoration of that property and twenty thousand dollars ($20,000) of which shall be for maintenance of that property.

(b) The appropriation in subdivision (a) is subject to all of the following:

(1) The property shall be acquired pursuant to the Wildlife Conservation Law of 1947 (Chapter 4 (commencing with Section 1300) of Division 2 of the Fish and Game Code) and is exempt from relocation assistance requirements, if any, pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code.

(2) The Wildlife Conservation Board, upon acquisition, shall transfer control and possession of the property to the Department of Parks and Recreation.

(3) The property shall be operated and maintained by the Department of Parks and Recreation in a manner which promotes its environmental and recreational values. The Department of Parks and Recreation may enter into appropriate agreements as may be necessary to carry out the provisions of this subdivision.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to acquire lands necessary for recreation along the Feather River at the earliest possible time, and to avoid excessive interest costs on judgments rendered in eminent domain proceedings, and, in order to acquire as state lands an environmentally sensitive parcel of approximately 777 acres of land comprising wetlands, meadow, and wildlife habitat for the purpose of protecting a unique and irreplaceable watershed through which

the Upper Truckee River supplies approximately 40 percent of the water flowing into Lake Tahoe, and to settle and dismiss, with prejudice, the litigation regarding that property, it is necessary that this act take effect immediately.

CHAPTER 1471

An act to amend Sections 7075, 7076, 7085, and 7087.5 of the Government Code, relating to economic and job development zones, making an appropriation thereof, and declaring the urgency therefor, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 7075 of the Government Code is amended to read:

7075. Upon filing a preliminary application, the applicant, as lead agency, shall submit an initial study and a notice of preparation to the department, state clearinghouse and all responsible agencies. Only a city, county, or city and county chosen by the department as a final applicant shall prepare, or cause to be prepared, a draft environmental impact report, which shall set forth the potential environmental impacts of any and all development planned within the enterprise zone. The draft environmental impact report shall be submitted to the department with the final application. Prior to final designation by the department, the applicant shall complete and certify the final environmental impact report. The environmental impact report shall comply with the information disclosure provisions and the substantive requirements of Division 13 of the Public Resources Code. No further environmental impact report shall be required if the effects of the project were either (1) mitigated or avoided as a result of the environmental impact report prepared for the area, or (2) examined at a sufficient level of detail in the environmental impact report for the area to enable those effects to be mitigated or avoided by specific site revisions, the imposition of conditions, or other means in connection with the designation of the area.

SEC. 2. Section 7076 of the Government Code is amended to read:

7076. (a) The department shall design, develop, and make available the applications and the criteria for selection of enterprise zones, and shall adopt all regulations necessary to carry out the provisions of Section 7073.

(b) The applications, selection criteria, and all necessary regulations shall be adopted and made available not later than 250

days following the effective date of this chapter.

(c) The department may commence the designation of areas for the program on the effective date of the regulations described in subdivision (a) and shall complete those designations as expeditiously as practicable, but in no event later than two years from the effective date of this chapter.

(d) The department shall adopt regulations concerning the designation procedures and application process as emergency regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purpose of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare notwithstanding the provisions of subdivision (e) of Section 11346.1 of the Government Code. Notwithstanding the provisions of subdivision (e) of Section 11346.1 of the Government Code, the regulations shall not remain in effect more than 180 days unless the agency complies with all provisions of Chapter 3.5 as required by subdivision (e) of Section 11346.1 of the Government Code.

SEC. 3. Section 7085 of the Government Code is amended to read:

7085. (a) An applicant may apply to the department to have an area designated as a targeted economic development area or a neighborhood economic development area, or both, for a five-year period which is renewable each five years until a total of 15 years is reached.

(b) The applicant shall first file with the department a preliminary application which shall include the elements required for the designation as a qualified area. The department shall select no more than 20 applicants annually to complete a final application. The final application shall include, but not be limited to, all of the following:

(1) A comprehensive economic development strategy for the designated area which provides for meaningful involvement of community residents, community businesses, and other community entities in the development of that strategy. The strategy shall only be approved by local ordinance following a public hearing. The applicant shall provide for public notice of the hearing on the strategy.

(2) A community impact statement which analyzes the impact of the development on the community and includes both of the following:

(A) An evaluation of the effect of the new development on the area's infrastructure.

(B) The effect of the new development on the provision of community services.

(3) A plan which specifies development objectives and assigns a priority to each development objective.

(4) The manner and level in which community services and infrastructure, particularly through experimentation with community and private sector involvement, will be improved to accommodate new development.

(5) A description of current economic development projects in the applicant's jurisdiction and an analysis of how participation in the program area will supplement existing economic development activities.

(6) An identification of funds for economic development activities from federal, state, local, and private sources which are planned for use in the program area.

(7) An evaluation of the employment, job skills, and management training needs of businesses and residents in the program area.

(8) An estimate of the number of new jobs that will result from the program based on the employment needs evaluation made pursuant to paragraph (7).

(9) A description of specific actions and timetables to reduce, remove, simplify, or streamline local requirements and the local permit process within the program area without endangering the public health, safety and welfare in the community.

(10) Proposed involvement in the program by private entities, organizations, neighborhood organizations, and neighborhood groups which may make contributions to the program.

(11) If applicable, a specification of the distance between the proposed targeted economic development area and the nearest high density unemployment area. The distance shall be within reasonable commuting distance.

(c) The department shall design, develop, and make available the applications, the criteria for selection, and all regulations regarding the program.

(d) In competitively evaluating the applications for the program designation, the department shall give special preference to those areas with respect to which the strongest and highest quality contributions described in subdivision (b) are indicated. The form and manner in which applications are required to be submitted shall minimize the paperwork of the applicant.

(e) The department shall also give preference to those applications that provide a plan for local efforts to reduce impediments to economic development and maintain the quality of life of the community, which include, but are not limited to, the following:

(1) A proposal for program areas close enough for easy access to the high density unemployment areas or which route transit service to serve employees.

(2) A plan to encourage the retention and expansion of existing businesses.

(3) A strategy for the recruitment of new businesses into the program area.

(4) A realistic projection of the new job opportunities that are

suitable to the needs of program area residents.

(5) A plan to demonstrate innovative and comprehensive strategies to improve community services through the utilization of contracts with private entities, organizations, neighborhood organizations, and neighborhood groups.

(6) A plan to provide, by working with the state, insurance for qualified businesses in the program area.

(7) A plan to establish a loan bank or fund to provide capital to qualified businesses in the program area.

(8) A plan to rehabilitate existing abandoned structures.

(f) The department shall establish regulations and make available the applications for the program not later than 250 days after the effective date of this chapter.

(g) The department may designate areas for the program beginning on the effective date of the regulations described in subdivision (f), but not later than the final day of the 36th full calendar month following that date.

(h) The department may designate not more than a total of nine targeted economic development areas and nine neighborhood economic development areas over a 15-year period. In complying with this limitation, the department shall designate not more than three targeted economic development areas and three neighborhood economic development areas by the end of 1984, not more than six targeted economic development areas and six neighborhood economic development areas by the end of 1985, and not more than nine targeted economic development areas and nine neighborhood economic development areas by the end of 1986. The department may not designate as a targeted economic development area pursuant to this chapter any area that has been designated for economic development as an enterprise zone under any other provision of state law.

(i) The department shall adopt regulations concerning the designation procedures and application process as emergency regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purpose of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare notwithstanding the provisions of subdivision (e) of Section 11346.1 of the Government Code. Notwithstanding the provisions of subdivision (e) of Section 11346.1 of the Government Code, the regulations shall not remain in effect more than 180 days unless the agency complies with all provisions of Chapter 3.5 as required by subdivision (e) of Section 11346.1 of the Government Code.

SEC. 4. Section 7087.5 of the Government Code is amended to read:

7087.5. Upon filing a preliminary application, the applicant, as lead agency, shall submit an initial study and a notice of preparation

to the department, state clearinghouse and all responsible agencies. Only a city, county, or city and county chosen by the department as a final applicant shall prepare, or cause to be prepared, a draft environmental impact report, which shall set forth the potential environmental impacts of any and all development planned within the program area. The draft environmental impact report shall be submitted to the department with the final application. Prior to final designation by the department, the applicant shall complete and certify the final environmental impact report. The environmental impact report shall comply with the information disclosure provisions and the substantive requirements of Division 13 of the Public Resources Code. No further environmental impact report shall be required if the effects of the project were either (1) mitigated or avoided as a result of the environmental impact report prepared for the program area, or (2) examined at a sufficient level of detail in the environmental impact report for the program area to enable those effects to be mitigated or avoided by specific site revisions, the imposition of conditions, or other means in connection with the designation of the program area.

SEC. 5. There is hereby appropriated from the General Fund to the Department of Commerce the following sums:

(a) Twenty-five thousand dollars ($25,000) from the General Fund to the Department of Commerce for the purpose of carrying out Chapter 44 of the Statutes of 1984 and the provisions of this act. The funds appropriated by this subdivision shall remain available for expenditure until July 1, 1985, and any unused funds on that date shall revert to the General Fund.

(b) Twenty-five thousand dollars ($25,000) from the General Fund to the Department of Commerce for the purpose of carrying out Chapter 45 of the Statutes of 1984 and the provisions of this act. The funds appropriated by this subdivision shall remain available for expenditure until July 1, 1985, and any unused funds on that date shall revert to the General Fund.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that some of the depressed areas within this state may be economically revitalized as soon as possible in accordance with the provisions of Chapters 44 and 45, Statutes of 1984, it is necessary that this act go into immediate effect.

CHAPTER 1472

An act to amend Section 14103.75 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 14103.75 of the Welfare and Institutions Code, is amended to read:

14103.75. Prior authorization may be required by the director for services or items prescribed or ordered by a practitioner who has been determined by the director to have been prescribing or ordering medically unnecessary or excessive services or items for Medi-Cal beneficiaries. When this requirement has been imposed upon a practitioner, the department shall give written notice to the practitioner, and shall also give written notice identifying the practitioner to all Medi-Cal providers who may be requested by that practitioner to furnish ordered or prescribed services or items. Payment may not be denied for services or items provided pursuant to an order or prescription issued by these practitioners prior to written notification by the department that these services or items must have prior authorization. After this notice has been received, it shall be the duty of the practitioner to seek prior authorization for all ordered or prescribed services or items within the scope of the director's requirement. Where a practitioner fails to obtain prior authorization for a service or item within the scope of the director's requirement and the service or item is provided or dispensed to a beneficiary by another provider, the prescribing practitioner shall be financially responsible for payment. The department shall not deny payment to the provider for the prescribing practitioner's failure to obtain prior authorization, but shall reimburse the provider as otherwise provided by law and recover the payment from the prescribing practitioner.

CHAPTER 1473

An act to add Article 11 (commencing with Section 1339.51) to Chapter 2 of Division 2 of the Health and Safety Code, relating to health facilities, and making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Article 11 (commencing with Section 1339.51) is added to Chapter 2 of Division 2 of the Health and Safety Code, to read:

Article 11. Demonstration Project for Chronically or Terminally Ill Children

1339.51. The Legislature finds and declares as follows:

(a) That parents of children who have chronic illnesses or disabilities or who have terminal illness have no place to turn for temporary relief from the burden of providing for the daily physical care needs of their children.

(b) That many single parents of these children must work or further their education, but are unable to find a child care agency in the community equipped and staffed to provide the physical care required for these children.

(c) That there are children for whom home health aides provide adequate care, but who have unmet socialization needs.

(d) That these children daily require more than the incidental medical care available in a community care facility, but less than the medical care provided in an acute care hospital or skilled nursing facility.

(e) That the extraordinary demands placed upon the families of these children often result in unnecessary and expensive admissions to acute care hospitals or skilled nursing facilities or in delayed discharge from acute care.

1339.52. For the purposes of this article:

(a) "Children" means persons under the age of 21 years.

(b) "Chronic illness" means a physical condition which restricts physical development, impairs ability to engage in age-appropriate accustomed and expected activities, and requires periodic medical treatment during the year in a hospital or other medical outpatient or inpatient facility. "Chronic illness" does not include developmental disabilities as defined in Section 4512 of the Welfare and Institutions Code.

(c) "Intermediate care facility for chronically or terminally ill children" means a facility which provides 24-hour personal care and supportive health services and day care to children with chronic or terminal illnesses who need care and supervision and regular health services, and each client has been certified by the client's attending physician and surgeon as not requiring continuous skilled nursing care. An intermediate care facility for chronically or terminally ill children shall be limited to a capacity of eight day care clients with provision for intermittent 24-hour care for no more than four of the day care clients at any one time.

1339.53. The care provided in an intermediate care facility for chronically or terminally ill children under this chapter shall include,

but not be limited to, child supervision, dietary services, administration of medications, day activities and socialization, coordination with local education agencies, and special services, as determined by the client's attending physician and surgeon. At the time of admission or within 24 hours of admission, an individual care plan shall be developed. The individual care plan shall be coordinated by a registered nurse who shall be on call at all times for the provision of needed skilled nursing services. Medications shall be administered by the registered nurse and licensed vocational nurse within the scope of their respective licenses. The department shall determine staffing standards which shall include at least one licensed vocational nurse and at least one care provider trained in early childhood education. Each client accepted for care shall be under the continuing supervision of an attending physician and surgeon who shall evaluate the client as needed and at least once every 30 days unless there is an alternate schedule. The attending physician and surgeon shall document the visits in the client's health record.

1339.54. The state department shall establish a three-year demonstration project for one intermediate care facility for chronically or terminally ill children as provided in this chapter as follows:

(a) On or before July 1, 1985, the state department shall contract with a qualified organization in Sacramento County using a competitive bidding process to conduct the demonstration project.

(b) On or before July 1, 1988, the state department shall submit to the Legislature an evaluation report which shall include, but not be limited to, all of the following:

(1) The number of children served.

(2) The medical diagnosis of children served.

(3) The reasons for admission.

(4) The services provided.

(5) The length of stay.

(6) The reason for discharge.

(7) An evaluation of the services by the family.

(8) The private and public cost of service.

(9) Recommendations for expansion or termination of the program.

(10) An assessment of the cost effectiveness of the project.

(c) The state department shall conduct an evaluation of the program at least annually.

1339.55. (a) The intermediate care facility for chronically or terminally ill children shall meet the same fire safety standards adopted by the State Fire Marshal pursuant to Sections 13113, 13113.5, 13143, and 13143.6 that apply to community care facilities, as defined in Section 1502, of similar size and with residents of similar age and ambulatory status. No other state or local regulations relating to fire safety shall apply to these facilities, and the requirements specified in this section shall be uniformly enforced by state and local fire authorities.

1339.56. The intermediate care facility for chronically or terminally ill children shall meet the same seismic safety requirements applied to community care facilities of similar size with residents of similar age and ambulatory status. No additional requirements relating to seismic safety shall apply to these facilities.

1339.57. For the purposes of all local zoning and use permit ordinances, an intermediate care facility for chronically or terminally ill children shall be considered to be a community care facility of six beds or less and shall meet the requirements of Section 1566.3. No other state or local requirements relating to zoning and use permits shall apply to these facilities.

1339.58. Multipurpose spaces in an intermediate care facility for chronically or terminally ill children shall be utilized to provide rest periods, space, and accommodation for day care clients.

1339.59. The uniform standards of financial eligibility established by the department under Section 255 shall be used to determine financial eligibility under this article. The state department shall establish and update as necessary a schedule of fees which shall be paid by the families of children receiving services under this chapter according to ability to pay.

1339.60. The director may terminate the demonstration project at any time it is determined that conditions exist which constitute a threat to the health, safety, security, and welfare of the clients.

1339.61. It is the intent of the Legislature that for purposes of this article, statutes and regulations governing intermediate care facilities be applied to this demonstration project by the state department in a manner that provides for maximum flexibility in requirements in areas including, but not limited to, staffing, dietary services, physical plant and equipment, and client records, so long as this flexibility is consistent with client health and safety.

SEC. 2. There is hereby appropriated from the General Fund to the State Department of Health Services the sum of two hundred fifty thousand dollars ($250,000) for expenditure without regard to fiscal years to carry out the purposes of this act.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1474

An act to add and repeal Chapter 7 (commencing with Section 5575) of Part 1 of Division 5 of the Welfare and Institutions Code, relating to juveniles, making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Chapter 7 (commencing with Section 5575) is added to Part 1 of Division 5 of the Welfare and Institutions Code, to read:

CHAPTER 7. MENTAL HEALTH SERVICES FOR CHILDREN

5575. The Legislature finds that there is no comprehensive system for the delivery of mental health services to children and youth, including families or foster families. It further finds that services to children and youth are provided by various departments and agencies at both the state and county level, often without appropriate collaboration. The Legislature finds that mental health services to children in the County of Ventura are comparatively more comprehensive, involve more interagency collaboration, and provide a potential model program. Therefore, it is the intent of the Legislature to establish a two-year demonstration project in Ventura County to accomplish the following goals:

(a) Design and implement a comprehensive coordinated children's mental health service system as described in the 1983 State Department of Mental Health planning model.

(b) Build on existing service capabilities within the various agencies currently serving children's needs.

(c) Provide for a joint evaluation or interagency consultation by all publicly funded agencies for minors experiencing emotional disturbances.

(d) Identify statutory and regulatory changes that would facilitate interagency cooperation.

(e) Develop appropriate interagency protocols and agreements.

(f) Develop appropriate services for difficult-to-place children.

(g) Provide services in a manner that gives priority to permitting the minor to reside in his or her usual family setting.

(h) Where a joint evaluation indicates that out-of-home care and treatment is required, ensure that these services are provided in the least restrictive setting consistent with effective services, and in as close proximity as possible to the minor's usual residence.

(i) Conduct research into children's mental health service system in order that the system may be evaluated for effectiveness of treatment and cost benefit on an ongoing basis.

(j) Provide for other counties or regions a replicable model for a comprehensive, coordinated children's mental health service system.

5576. The State Department of Mental Health shall establish a two-year demonstration project in Ventura County for identifying and evaluating the county's interagency mechanism whereby local agencies serving emotionally disturbed minors with public funds are effectively collaborating with each other on behalf of these minors.

5577. (a) The State Department of Mental Health shall contract with the County of Ventura, according to the terms set forth in Section 5705.2, for the purpose of establishing a two-year demonstration project for developing and implementing a model children's comprehensive mental health service system. The program, as developed, shall meet the goals stated in Section 5575. The project shall include the various elements described in the proposed planning model for continuum of care for emotionally disturbed children and youth, published by the State Department of Mental Health in October 1983.

(b) The system developed pursuant to subdivision (a) shall include joint evaluation of the child and shall give priority to all of the following:

(1) Enabling the minor to remain at home whenever possible.

(2) Providing placement in the least restrictive and least costly setting consistent with the minor's needs.

(3) Enabling the minor to receive out-of-home services in as close proximity as possible to the minor's usual residence.

(c) The contract pursuant to subdivision (a) shall include research into the county's mental health service system for children and youth in order that the system may be evaluated for effectiveness of treatment and cost benefit on an ongoing basis, and identification of a model for a comprehensive coordinated children's mental health service system that can be replicated in other counties.

(d) The Director of Mental Health shall establish an advisory group comprised of, but not limited to, the following: representatives from the appropriate state departments, children services coordinators designated by the Conference of Local Mental Health Directors, the Citizens Advisory Council and the local mental health advisory boards. The function of the advisory group shall be to advise and assist Ventura County in the development of replicable model programs and other duties as determined by the Director of Mental Health.

(e) The demonstration project shall begin on April 1, 1985, and shall continue through June 30, 1987. During this period, the County of Ventura shall file progress reports each six months, beginning on December 1, 1985. The June 1, 1986, report shall also contain information on statutory and regulatory changes needed for interagency collaboration, and copies of interagency protocols and agreements that have been developed. The final report on the project shall be completed on or before June 30, 1987. This report

shall be submitted to the State Department of Mental Health and to the Chairpersons of the Assembly Committee on Health, the Senate Committee on Health and Human Services, the Assembly Ways and Means Committee, and the Senate Finance Committee.

5578. The sum of two million eight hundred ninety-four thousand three hundred twenty-five dollars ($2,894,325) is the estimated cost of the demonstration project which shall be administered by the State Department of Mental Health in accordance with the following schedule:

(1) Two hundred thousand dollars ($200,000) is appropriated from the General Fund to the department for the 1984–85 fiscal year.

(2) The Legislature intends that one million five hundred forty-three thousand six hundred forty dollars ($1,543,640) shall be appropriated in the 1985–86 Budget Act for the next four quarters of the demonstration project.

(3) The Legislature intends that the remaining one million one hundred fifty thousand six hundred eighty-five dollars ($1,150,685) be appropriated from the 1986–87 Budget Act for the last three quarters of the demonstration project and wind down costs will be based on a review and evaluation of the demonstration project.

5579. This chapter shall remain in effect only until June 30, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before June 30, 1987, deletes or extends that date.

CHAPTER 1475

An act to amend and repeal Sections 13053 and 13054 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 13053 of the Unemployment Insurance Code is amended to read:

13053. (a) Every employer shall file an annual return with the department, on forms prescribed by the department, reporting the total tax withheld for the year pursuant to Section 13020 at the time prescribed by the director. The employer shall include with the return, in a manner prescribed by the director, duplicates of the statements required pursuant to Section 13050.

(b) This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1988, pursuant to Section 9611 of the Government Code, Section 13053 of

the Unemployment Insurance Code, as added by Section 64 of Chapter 1007 of the Statutes of 1980, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. Section 13054 of the Unemployment Insurance Code is amended to read:

13054. (a) If an employer fails to file the annual report of compensation paid and taxes withheld, required under Section 13053, on or before 30 days after notice has been given to the employer of his or her failure to file, unless the failure is due to reasonable cause, the employer, in addition to any other penalties imposed by this division and Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, shall pay a penalty of two hundred fifty dollars ($250). The penalty shall be assessed and collected in the same manner as the tax.

(b) This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1988, pursuant to Section 9611 of the Government Code, Section 13054 of the Unemployment Insurance Code, as added by Section 64 of Chapter 1007 of the Statutes of 1980, shall have the same force and effect as if this temporary provision had not been enacted.

CHAPTER 1476

An act to amend Sections 12974, 12976, and 12994 of the Food and Agricultural Code, relating to agriculture, and making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 12974 of the Food and Agricultural Code is amended to read:

12974. Failure of a person using a pesticide to possess a written recommendation shall create a rebuttable presumption that he or she has assumed responsibility for the recommendation.

SEC. 2. Section 12976 of the Food and Agricultural Code is amended to read:

12976. The director, after investigation and hearing, may adopt regulations to govern the possession, sale, or use of any pesticide which the director finds necessary to carry out the purposes of Division 6 (commencing with Section 11401) or this division.

SEC. 3. Section 12994 of the Food and Agricultural Code is amended to read:

12994. It is unlawful for any person to transport, destroy, or

dispose of any quarantined economic poison, unless the person has received written permission from the director.

SEC. 4. (a) The Legislature finds and declares that the proper and careful use of pesticides is important for protection of the agricultural resource and the health and safety of the public, and for the elimination of environmental contamination resulting from the misuse of pesticides. The Legislature further finds and declares that a critical factor in the safe and proper use of pesticides is the knowledge and skills of the applicators, particularly aerial applicators.

(b) The Director of Food and Agriculture, in consultation with the University of California, shall develop a curriculum designed for the implementation of a training program to raise the level of knowledge and skill of aerial and other pesticide applicators through contracts with organizations that have demonstrated expertise in the field of pesticide application training.

(c) The curriculum covered in the training programs shall include, but not be limited to, all of the following:

(1) Recognized industry standards for the conduct of aerial pest control operations.

(2) Laws and regulations relating to pesticide use, transportation, and disposal.

(3) Consideration of specific and general environmental effects resulting from the use of pesticides.

(4) Individual duties and responsibilities of the various application crew members.

(5) Equipment selection, calibration, and maintenance.

(d) The sum of one hundred seventy-five thousand dollars ($175,000) is hereby appropriated from the General Fund to the Department of Food and Agriculture to carry out subdivision (b).

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1477

An act to add and repeal Section 2714 of the Penal Code, relating to prison inmates.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 2714 is added to the Penal Code, to read:

2714. (a) The Department of General Services, in cooperation with the Department of Corrections and the Prison Industry Authority, shall conduct an inventory of state land which may be used for prison farm operations, as described in Section 2715, or prison industry operations, as defined in Section 2807. The inventory shall be completed by January 1, 1986.

(b) By July 1, 1987, the Department of Corrections and the Prison Industry Authority shall report to the Legislature with respect to plans for expanding prison farm or industry operations on state lands.

(c) This section shall remain in effect until January 1, 1988, and as of that date is repealed.

CHAPTER 1478

An act to add Section 5020 to the Penal Code, relating to prisoners.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. The Legislature finds and declares that:

(a) The rate of criminal recidivism can be greatly reduced by educating and training individuals confined in California's juvenile and adult correctional institutions and by providing those individuals with preemployment job training, thereby creating a healthier and safer environment for society, significantly reducing the cost of repeated incarceration, and offering inmates the skills and capacity for meaningful employment in the future.

(b) Many inmates, both juvenile and adult, confined in California's correctional institutions do not possess basic education skills such as reading, language, and mathematics, and it is often necessary to employ nontraditional approaches to reach and educate these individuals, improve their self-image, and provide them with the means to earn a livelihood.

(c) Technological breakthroughs in the computer industry are providing new approaches in variable, individualized, student-oriented methods of learning that may prove the means and method by which offenders will be encouraged to participate in educational programs.

(d) A coalition of public and private sector business, industry, and labor communities may prove to be the most successful method for encouraging innovative techniques in educating incarcerated offenders.

SEC. 2. Section 5020 is added to the Penal Code, to read:

5020. (a) The Department of Corrections and the California Youth Authority shall conduct a two-year pilot project in juvenile halls, the Youth Authority, and the state prison system if and when the necessary computer hardware, software, and technical assistance is donated to the departments to implement innovative individualized education programs in these institutions.

(b) The Department of the Youth Authority and the Department of Corrections shall, within budgetary limitations, provide staff to be trained and participate in educating and testing the inmates. At the end of the project period, the departments shall evaluate the effectiveness of the training techniques employed and report to the Legislature on their findings.

CHAPTER 1479

An act to amend Section 1798 of, and to add Section 1798.5 to, the Welfare and Institutions Code, relating to crime and delinquency prevention.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 1798 of the Welfare and Institutions Code is amended to read:

1798. An advisory commission shall be established which shall be known as the State Commission on Juvenile Justice, Crime and Delinquency Prevention. The members of the commission shall be persons with a demonstrated interest in juvenile justice or crime and delinquency prevention issues, or representatives of youth groups or other public and private agencies with a focus on the needs of youth. The commission shall not exceed 16 members, one of whom shall be appointed by the Senate Rules Committee, one of whom shall be appointed by the Speaker of the Assembly, and four of whom shall be chairpersons of the regional citizens' advisory committees established pursuant to Section 1798.5. The remaining 10 commission members shall be appointed by the Director of the Youth Authority, and shall include one public defender and one district attorney who are currently assigned to juvenile justice duties.

The commission shall advise the Director of the Youth Authority on matters relating to this article, and its activities shall include the inspection of Youth Authority facilities, providing advice to the director regarding department programs and delinquency prevention funding, and acting as a liaison between the Youth Authority and the public. The members of the commission shall be entitled to their reasonable expenses, including travel expenses, incurred in the discharge of their duties.

SEC. 2. Section 1798.5 is added to the Welfare and Institutions Code, to read:

1798.5. The Director of the Youth Authority shall appoint four regional citizens' advisory committees each of which shall assist in the inspection of the Youth Authority facilities within its region and provide public comment to the director concerning the operations of the Youth Authority. The membership of the advisory committees shall be drawn from representatives of youth groups, county juvenile justice and delinquency prevention commissions, community-based organizations, charitable organizations, probation departments, the judiciary, social services, law enforcement, the defense bar, education, and the general public.

CHAPTER 1480

An act to amend Section 698 of the Military and Veterans Code, relating to public health, and making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. The Legislature finds and declares as follows:

(a) Vietnam veterans in California have no alternative to the United States Veterans' Administration in seeking help with health problems and concerns related to exposure to herbicides such as Agent Orange, while some other states, by contrast, maintain screening and diagnostic services or assistance to veterans in obtaining necessary health services from the Veterans' Administration together with followup monitoring of the performance of the Veterans' Administration facilities in those states.

(b) There are 14 Veterans' Administration facilities within California, and the Veterans' Administration is under congressional mandate to provide a range of health care services, examinations, and information to Vietnam veterans possibly exposed to herbicides while serving in Vietnam.

(c) The United States General Accounting Office has recently published a report, designated GAO/MRD 83-6 dated October 25, 1982, and titled "The Veterans' Administration's Agent Orange Examination Program: Actions Needed to More Effectively Address Veterans' Health Concerns," which concluded that health care facilities of the Veterans' Administration nationwide were significantly deficient in carrying out federal law regarding services to Vietnam veterans potentially exposed to Agent Orange. This report concluded, among other things, that, overall, the Veterans' Administration provides Vietnam veterans with complete physical examinations in only a minority of cases. The sample of Veterans'

Administration facilities investigated by the General Accounting Office in its study included two of the 14 in California.

SEC. 2. Section 698 of the Military and Veterans Code is amended to read:

698. (a) The department shall assist Vietnam veterans, and the dependents of those veterans, in presenting and pursuing claims that a veteran or dependent asserts that he or she may have against the United States arising out of exposure to herbicides, including Agent Orange. As part of the department's assistance in the preparation and filing of claims for damages alleged to be due to herbicide exposure, the department shall do all of the following:

(1) Cooperate with the State Department of Health Services and other state, federal, and private agencies to organize and distribute the information on the effects of Agent Orange and other herbicides on Vietnam veterans, as identified pursuant to subdivision (b).

(2) Provide an outreach program to inform California Vietnam veterans of the possible detrimental effects of herbicide exposure in Vietnam. This program shall include, but not be limited to, dissemination of information to county veteran service officers and other California veteran agencies and organizations.

(3) Retain information on those Vietnam veterans responding to the outreach program.

(4) Provide referral for administrative, medical, and compensation services administered by the Veterans' Administration.

(5) Follow up on its referrals of veterans to the United States Veterans' Administration for purposes of assisting Vietnam veterans in securing medical assistance or pursuing claims for compensation.

(6) Maintain contact with veterans referred to the United States Veterans' Administration to establish a record of their degree of satisfaction with Agent Orange services provided by the Veterans' Administration. The findings and recommendations contained in the United States General Accounting Office report GAO/MRD 83-6, dated October 25, 1982, entitled "The Veterans' Administration's Agent Orange Examination Program: Actions Needed to More Effectively Address Veterans' Health Concerns" shall be used as a guide in compiling this record. The department shall make a report of the record so compiled to both of the following:

(A) The proper administrators at the headquarters of the Veterans' Administration.

(B) The appropriate committees of the Legislature.

(7) Report to the Legislature on or before January 1, 1985, on the Agent Orange Program. The report shall include, but not be limited to, the following:

(A) The number of California veterans identified as having been exposed to Agent Orange and other defoliants.

(B) The number of California veterans filing claims for compensation for service-related exposure to Agent Orange and other defoliants.

(C) A categorization of symptoms reported by the veterans.

(D) A summary of medical test results from exposed veterans.

(E) The availability of federal and private funds to offset state expenses incurred in assisting veterans in filing defoliant-related claims.

(b) The department shall also assist American civilians who served in Vietnam in obtaining information concerning their possible exposure to herbicides, including Agent Orange. As part of the department's assistance in this regard, the department shall conduct an outreach program to do all of the following:

(1) Contact civilians who served in Vietnam.

(2) Furnish these civilians with information on the possible detrimental effects of exposure to herbicides employed in Vietnam and on possible sources of information relative to securing medical services and assistance in pursuing claims for compensation.

(3) Prepare and submit to the Legislature on or before January 1, 1987, a report on the results of its assistance to civilians.

(c) The Board of Medical Quality Assurance, in cooperation with the department, shall provide a program for the dissemination of information through physicians on the Agent Orange and herbicide exposure health care and compensation services administered by the Veterans' Administration and assistance provided by the department.

(d) As used in this section, "Agent Orange" means the herbicide composed primarily of trichlorophenoxy acetic acid and dichlorophenoxy acetic acid.

(e) This section shall remain in effect only until June 30, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before June 30, 1987, deletes or extends that date.

SEC. 3. The sum of fifty thousand dollars ($50,000) is hereby appropriated from the General Fund to the Department of Veterans Affairs for expenditure during the 1984–85 fiscal year for purposes of this act.

CHAPTER 1481

An act relating to state employment.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. It is the intent of the Legislature that guidelines for equal and fair employment protections apply to all categories of disabled persons. As used in this section, "disabled person" does not include any individual who is an alcohol or drug abuser whose current use of alcohol or drugs prevents the individual from

performing the duties of the job in question, or whose employment, because of current alcohol or drug abuse, would constitute a direct threat to the property or the safety of others. The State Personnel Board shall conduct a review of the methods now used to insure equal employment opportunities for all categories of the disabled and explore alternative ways to identify and track nonobservable disabilities, while protecting applicant and employee confidentiality and right to privacy. The board shall also explore whether affirmative action goals and timetables, including exemption from layoff, ought to be extended to include all categories of disabled persons, and, if that question is answered in the affirmative, then the board shall study how to accomplish those results. The board shall submit a report to the Legislature outlining the board's findings and recommendations no later than June 30, 1985.

CHAPTER 1482

An act to add Chapter 8 (commencing with Section 13870) to Title 6 of Part 4 of the Penal Code, relating to crime, and making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Chapter 8 (commencing with Section 13870) is added to Title 6 of Part 4 of the Penal Code, to read:

CHAPTER 8. INFORMATION ON RACIAL, ETHNIC AND RELIGIOUS CRIMES

13870. The Legislature finds that racial, ethnic, and religious crimes occur throughout California and that no single agency now either provides assistance or monitors the full range of this crime in the state on a consistent basis. The Legislature further declares that exposure of the facts about racial, ethnic, and religious crimes will lead to greater public awareness of the problem of bigotry and prejudice and will provide a foundation for developing remedies to the problem.

In enacting this chapter, the Legislature intends to take the preliminary steps needed to establish a statewide information center to receive and evaluate information reflecting racial, ethnic, and religious crime. It is intended that this information will provide a precise picture of the geographic distribution of these crimes and trends over time.

13871. The Attorney General shall, on January 1, 1985, commence a one-year project to develop a program model to collect, compile,

and analyze information about racial, ethnic, and religious crimes. The project shall include, but not be limited to, all of the following duties:

(a) Develop uniform guidelines for consistent identification of racial, ethnic, and religious crimes.

(b) Recommend an appropriate means for statewide collection of data on racial, ethnic, and religious crimes.

(c) Recommend an appropriate state agency to implement collection of this information.

(d) Submit to the Legislature a final report describing the findings of the study by January 1, 1986.

13872. The crimes that shall be the focus of this chapter shall include a wide variety of incidents, which reflect obvious racial, ethnic, or religious motivations, ranging from vandalizing a place of worship to assaults between members of gangs, including, but not limited to, incidents that occur on school grounds and between gang members and any other incidents that law enforcement officers on a case-by-case basis identify as having a racial, ethnic or religious motivation. They shall not include incidents of discrimination in employment.

SEC. 2. The sum of seventy-five thousand dollars ($75,000) is hereby appropriated from the General Fund to the Department of Justice for the purposes of this act. The funds appropriated by this section shall be available for encumbrance until January 1, 1986.

CHAPTER 1483

An act making an appropriation to pay the settlement of the claim of Harriet E. Shields against the State of California, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. The sum of sixty thousand dollars ($60,000) is hereby appropriated from the General Fund to the State Board of Control to pay the settlement of the claim of the plaintiff against the State of California in the case entitled Harriet E. Shields v. State of California, case number C 304 087, brought in the Superior Court of the State of California for the County of Los Angeles.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to pay the settlement arising out of the action brought by the plaintiff, who has suffered serious injury, and ending the hardship

to the plaintiff as quickly as possible, it is necessary that this act go into immediate effect.

CHAPTER 1484

An act to add Article 5 (commencing with Section 49350) to Chapter 8 of Part 27 of the Education Code, relating to schools.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Article 5 (commencing with Section 49350) is added to Chapter 8 of Part 27 of the Education Code, to read:

Article 5. Toxic Art Supplies in Schools

49350. (a) The Legislature finds and declares that art supplies which contain toxic substances or which are potential human carcinogens pose a significant danger to the health and safety of school children. The Legislature also finds and declares that school children are not sufficiently protected by present health laws in so far as materials which may be seriously harmful are not so labeled and therefore children are not properly warned as to the dangers inherent in the use of those materials.

(b) The Legislature intends by this article to ensure that elementary school children are protected by prohibiting the sale of these toxic substances to schools and school districts for use in kindergarten and grades 1 to 6, inclusive, and that the toxic substances may be purchased by schools and school districts for students in grades 7 to 12, inclusive, only if the materials are properly labeled, as described in Section 49354.

49351. The term "art or craft material" means any raw or processed material or manufactured product marketed or being represented by the manufacturer or repackager as being suitable for use in the demonstration or the creation of any work of visual or graphic art of any medium. These media may include, but shall not be limited to, paintings, drawings, prints, sculpture, ceramics, enamels, jewelry, stained glass, plastic sculpture, photographs, and leather and textile goods.

49352. The term "human carcinogen" means any substance listed as a human carcinogen by the International Agency for Research on Cancer.

The term "potential human carcinogen" means one of the following:

(1) Any substance which does not meet the definition of human carcinogen, but for which there exists sufficient evidence of

carcinogenicity in animals, as determined by the International Agency for Research on Cancer.

(2) Any chemical shown to be changed by the human body into a human carcinogen.

49353. The term "toxic substance causing chronic illness" means any of the following:

(1) Human carcinogens.

(2) Potential human carcinogens.

(3) Any substance included in the list of hazardous substances prepared by the Director of Industrial Relations, pursuant to Section 6382 of the Labor Code, notwithstanding exemptions made for substances on the list which are used in particular forms, circumstances, or concentrations, if the health hazard presented by the substance is not the subject of label statements required by federal law.

49354. (a) For the 1986–87 academic year and for each academic year thereafter, no art or craft material which is deemed by the State Department of Health Services to contain a toxic substance, as defined by the California Hazardous Substance Act, Chapter 13 (commencing with Section 28740) of Division 22 of the Health and Safety Code, or a toxic substance causing chronic illness, as defined in this article, shall be ordered or purchased by any school or school district in California for use by students in kindergarten and grades 1 to 6, inclusive.

(b) Commencing June 1, 1986, any substance which is defined in subdivision (a) as a toxic substance causing chronic illness shall not be purchased or ordered by a school or school district for use by students in grades 7 to 12, inclusive, unless it meets the labeling standards specified in Section 49355.

(c) If the State Department of Health Services finds that, because the chronically toxic, carcinogenic, or radioactive substances contained in an art or craft product cannot be ingested, inhaled, or otherwise absorbed into the body during any reasonably foreseeable use of the product in a way that could pose a potential health risk, the department may exempt the product from these requirements to the extent it determines to be consistent with adequate protection of the public health and safety.

(d) For the purposes of this article, an art or craft material shall be presumed to contain an ingredient which is a toxic substance causing chronic illness if the ingredient, whether an intentional ingredient or an impurity, is 1 percent or more by weight of the mixture or product, or if the State Department of Health Services determines that the toxic or carcinogenic properties of the art or craft material are such that labeling is necessary for the adequate protection of the public health and safety.

49355. Warning labels for substances specified in Section 49354 shall meet all of the following standards:

(a) The warning label shall be affixed in a conspicuous place and shall contain the signal word "WARNING," to alert users of potential

adverse health effects.

(b) The warning label shall contain information on the health-related dangers of the art or craft material.

(1) If the product contains a human carcinogen, the warning shall contain the statement: "CANCER HAZARD! Overexposure may create cancer risk."

(2) If the product contains a potential human carcinogen, and does not contain a human carcinogen, the warning shall contain the statement: "POSSIBLE CANCER HAZARD! Overexposure might create create cancer risk."

(3) If the product contains a toxic substance causing chronic illness, the warning shall contain, but not be limited to, the following statement or statements where applicable:

(A) May cause sterility or damage to reproductive organs.

(B) May cause birth defects or harm to developing fetus.

(C) May be excreted in human milk causing harm to nursing infant.

(D) May cause central nervous system depression or injury.

(E) May cause numbness or weakness in the extremities.

(F) Overexposure may cause damage to (specify organ).

(G) Heating above (specify degrees) may cause hazardous decomposition products.

(4) If a product contains more than one chronically toxic substance, or if a single substance can cause more than one chronic health effect, the required statements may be combined into one warning statement.

(c) The warning label shall contain a list of ingredients which are toxic substances causing chronic illness.

(d) The warning label shall contain a statement or statements of safe use and storage instructions, conforming to the following list. The label shall contain, but not be limited to, as many of the following risk statements as are applicable:

(1) Keep out of reach of children.

(2) When using, do not eat, drink, or smoke.

(3) Wash hands after use and before eating, drinking, or smoking.

(4) Keep container tightly closed.

(5) Store in well-ventilated area.

(6) Avoid contact with skin.

(7) Wear protective clothing (specify type).

(8) Wear NIOSH certified masks for dust, mists, or fumes.

(9) Wear NIOSH certified respirator with appropriate cartridge for (specify type).

(10) Wear NIOSH certified supplied-air respirator.

(11) Use window exhaust fan to remove vapors and assure adequate ventilation (specify explosion-proof if necessary).

(12) Use local exhaust hood (specify type).

(13) Do not heat above (specify degrees) without adequate ventilation.

(14) Do not use/mix with (specify material).

(e) The warning label shall contain a statement on where to obtain more information, such as, "Call your local poison control center for more health information."

(f) The warning label, or any other label on the substance, shall contain the name and address of the manufacturer or repackager.

(g) If all of the above information cannot fit on the package label, a package insert shall be required to convey all the necessary information to the consumer. In this event, the label shall contain a statement to refer to the package insert, such as "CAUTION: See package insert before use." For puposes of this section, "package insert" means a display of written, printed, or graphic matter upon a leaflet or suitable material accompanying the art supply. The language on this insert shall be nontechnical and nonpromotional in tone and content.

(h) Art or craft material offered for sale in containers which contain less than 1 fluid ounce (30 milliliters) or 1 ounce net (29 grams) shall be deemed to comply with this section if there is affixed thereon a precautionary label that includes the signal words "USE WITH CAUTION: Contains Hazardous Substances," and a list of potentially harmful or sensitizing ingredients.

The requirements set forth in subdivisions (a) to (g), inclusive, shall not be considered to be complied with unless the required words, statements, or other information appear on the outside container or wrapper, or on a package insert which is easily legible through the outside container or wrapper and is painted in a color in contrast with the product or the package containing the product.

An art or craft material shall be considered to be in compliance with this section if Article 4 (commencing with Section 28794) of Chapter 13 of Division 22 of the Health and Safety Code requires labeling of the art or craft material, and if the material is in compliance with that article.

49356. The State Department of Health Services shall, by June 1, 1986, develop a list of those art or craft materials which cannot be purchased or ordered for use in kindergarten and in grades 1 to 6, inclusive, and a list of materials which, while not currently sold or manufactured, may be reasonably suspected to still exist at some schools. In developing the lists, the State Department of Health Services shall consult with manufacturers of art supplies, artists' groups, health organizations, and toxicologists as the State Department of Health Services deems appropriate.

The Superintendent of Public Instruction shall distribute the lists to all school districts in California, and shall make the lists available to preschools, childcare centers, and other businesses and organizations which involve children in the use of art or craft materials.

The superintendent shall inform school districts of the requirements of this article, and shall encourage school districts to dispose of art or craft material which may contain human carcinogens, potential human carcinogens, or chronically toxic

substances, but which is not affected by this article.

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

SEC. 3. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 4. This act shall become operative June 1, 1986.

CHAPTER 1485

An act to amend Sections 92660, 92661, and 92667 of, and to add Section 92660.5 to, the Education Code, and to add Sections 10500, 10500.5, 10501, and 10507 to the Public Contract Code, relating to the University of California, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 92660 of the Education Code is amended to read:

92660. As used in this article, "project" includes the erection, construction, alteration, repair, or improvement of any University of California structure, building, road or other improvement which will exceed in cost a total of fifty thousand dollars ($50,000).

SEC. 2. Section 92660.5 is added to the Education Code, to read:

92660.5. It is the intent of the Legislature to facilitate the participation of small businesses, particularly small disadvantaged or minority business enterprises and women's business enterprises, in business contracting with the University of California. The Legislature intends that the Regents of the University of California adopt policies and procedures to ensure that a fair proportion of university contracts be placed with small business concerns, particularly small disadvantaged and women's business concerns, in areas of commodity purchases, services, and construction contracts. It is further the intent of the Legislature that the regents adopt, by January 1, 1985, policies and procedures that include, but are not limited to, all of the following:

(a) Annual targets for utilization of small businesses, particularly

disadvantaged business enterprises and women's business enterprises, including subcontracts for construction.

(b) Annual statistical reports on the participation of small businesses, particularly disadvantaged business enterprises and women's business enterprises as general contractors and subcontractors in each project.

(c) Outreach programs.

(d) Directories of disadvantaged business enterprises and women's business enterprises.

(e) Monitoring by the regents of progress with respect to the utilization of disadvantaged business enterprises and women's business enterprises.

It is also the intent of the Legislature that the Regents of the University of California report annually to the Legislature, commencing July 1, 1985, on the participation of small businesses, particularly disadvantaged business enterprises, and women's business enterprises, in university business contracting.

SEC. 3. Section 92661 of the Education Code is amended to read:

92661. Except as provided for in this article, the Regents of the University of California shall let any contract for a project to the lowest responsible bidder or else reject all bids. However, if one or more of the bids is substantially equal to the lowest bid, and at least one of those bidders is a disadvantaged business enterprise or a women's business enterprise, the regents may award the contract in accordance with the policies and procedures adopted pursuant to Section 92660.5. If the regents deem it to be for the best interest of the university, the regents may, on the refusal or failure of the successful bidder for a project to execute a tendered contract, award it to the second lowest responsible bidder. If the second lowest bidder fails or refuses to execute the contract, the regents may likewise award it to the third lowest responsible bidder.

SEC. 4. Section 92667 of the Education Code is amended to read:

92667. Except as provided for in this article, the Regents of the University of California shall let all contracts involving an expenditure of more than fifty thousand dollars ($50,000) annually for goods and materials to be sold to the University of California to the lowest responsible bidder meeting specifications, or else reject all bids. Contracts for services to be performed, other than personal or professional services, involving an expenditure of fifty thousand dollars ($50,000) or more annually shall be made or entered into with the lowest responsible bidder meeting specifications, or else all bids shall be rejected. If the regents deem it to be for the best interest of the university, the regents may, on the refusal or failure of the successful bidder for materials, goods or services to execute a tendered contract, award it to the second lowest responsible bidder meeting specifications. If the second lowest responsible bidder fails or refuses to execute the contract, the regents may likewise award it to the third lowest responsible bidder meeting specifications.

SEC. 5. Section 10500 is added to the Public Contract Code, to

read:

10500. As used in this article, "project" includes the erection, construction, alteration, repair, or improvement of any University of California structure, building, road, or other improvement which will exceed in cost a total of fifty thousand dollars ($50,000).

SEC. 6. Section 10500.5 is added to the Public Contract Code, to read:

10500.5. It is the intent of the Legislature to facilitate the participation of small businesses, particularly small disadvantaged or minority business enterprises and women's business enterprises, in business contracting with the University of California. The Legislature intends that the Regents of the University of California adopt policies and procedures to ensure that a fair proportion of university contracts be placed with small business concerns, particularly small disadvantaged and women's business concerns, in areas of commodity purchases, services, and construction contracts. It is further the intent of the Legislature that the regents adopt, by January 1, 1985, policies and procedures that include, but are not limited to, all of the following:

(a) Annual targets for utilization of small businesses, particularly disadvantaged business enterprises and women's business enterprises, including subcontracts for construction.

(b) Annual statistical reports on the participation of small businesses, particularly disadvantaged business enterprises and women's business enterprises, as general contractors and subcontractors in each project.

(c) Outreach programs.

(d) Directories of disadvantaged business enterprises and women's business enterprises.

(e) Monitoring by the regents of progress with respect to the utilization of disadvantaged business enterprises and women's business enterprises.

It is also the intent of the Legislature that the Regents of the University of California report annually to the Legislature, commencing July 1, 1985, on the participation of small disadvantaged business enterprises and women's business enterprises in university business contracting.

SEC. 7. Section 10501 is added to the Public Contract Code, to read:

10501. Except as provided for in this article, the Regents of the University of California shall let any contract for a project to the lowest responsible bidder or else reject all bids. However, if one or more of the bids is substantially equal to the lowest bid, and at least one of those bidders is a disadvantaged business enterprise or a women's business enterprise, the regents may award the contract in accordance with the policies and procedures adopted pursuant to Section 10500.5. If the regents deem it to be for the best interest of the university, the regents may, on the refusal or failure of the successful bidder for a project to execute a tendered contract, award

it to the second lowest responsible bidder. If the second lowest bidder fails or refuses to execute the contract, the regents may likewise award it to the third lowest responsible bidder.

SEC. 8. Section 10507 is added to the Public Contract Code, to read:

10507. Except as provided for in this article, the Regents of the University of California shall let all contracts involving an expenditure of more than fifty thousand dollars ($50,000) annually for goods and materials to be sold to the University of California to the lowest responsible bidder meeting specifications, or else reject all bids. Contracts for services to be performed, other than personal or professional services, involving an expenditure of fifty thousand dollars ($50,000) or more annually shall be made or entered into with the lowest responsible bidder meeting specifications, or else all bids shall be rejected. If the regents deem it to be for the best interest of the university, the regents may, on the refusal or failure of the successful bidder for materials, goods, or services to execute a tendered contract, award it to the second lowest responsible bidder meeting specifications. If the second lowest responsible bidder fails or refuses to execute the contract, the regents may likewise award it to the third lowest responsible bidder meeting specifications.

SEC. 9. The sum of seventy-seven million one hundred thousand dollars ($77,100,000) is hereby appropriated from the General Fund to the Regents of the University of California for the purpose of funding the 1984–85 fiscal year employer contribution to the University of California Retirement System for those employees paid with state funds. Of this amount, sixty-four million eight hundred thousand dollars ($64,800,000) shall be used to maintain the actuarial soundness of the system, while twelve million three hundred thousand dollars ($12,300,000) shall be used to provide increased annuitant benefits and reduced employee contributions.

SEC. 10. Sections 5, 7, and 8 of this bill incorporate changes in Sections 10500, 10501, and 10507 of the Public Contract Code proposed by both this bill and AB 2556. These sections shall become operative only if (1) both bills are enacted and become effective on or before January 1, 1985, but this bill becomes operative first, (2) each bill adds Sections 10500, 10501, and 10507 to the Public Contract Code, and (3) this bill is enacted after AB 2556, in which case Sections 92660, 92661, and 92667 of the Education Code, as amended by Sections 1, 3, and 4 of this bill, shall remain operative only until the operative date of AB 2556, at which time Sections 5, 7, and 8 of this bill shall become operative.

SEC. 11. Section 6 of this bill shall become operative only if (1) both this bill and AB 2556 are enacted and become operative on or before January 1, 1985, but this bill becomes operative first, (2) this bill adds Section 10500.5 to the Public Contract Code and AB 2556 adds Chapter 2.1 (commencing with Section 10500) to Part 2 of Division 2 of the Public Contract Code, and (3) this bill is enacted after AB 2556, in which case Section 2 of this bill shall remain

operative only until the operative date of AB 2556, at which time Section 6 of this bill shall become operative.

SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to permit this act to become operative as early as possible in the 1984–85 fiscal year, and so facilitate the orderly administration of the University of California, it is necessary that this act take effect immediately.

CHAPTER 1486

An act to amend Sections 1505 and 1508 of, and to add Section 1508.5 to, the Health and Safety Code, relating to community care facilities.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 1505 of the Health and Safety Code is amended to read:

1505. This chapter does not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.

(d) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 727 of the Welfare and Institutions Code.

(e) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of the church or denomination.

(f) Any school dormitory or similar facility determined by the department.

(g) Any house, institution, hotel, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the director.

(h) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.

(i) Any cooperative arrangement between parents for the care of their children by one or more of the parents where no payment for the care is involved.

(j) Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons from only one family by a close friend of the parent, guardian, or conservator, if the arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the state department.

(k) Any public recreation program. "Public recreation program" means a program operated by the state, city, county, special district, school district, community college district, chartered city, or chartered city and county which meets either of the following criteria:

(A) The program is provided for children over the age of four years and nine months and is in operation for either of the following periods:

(i) For under 13 hours per week.

(ii) For more than 12 hours per week and is for 12 weeks or less per year in duration.

(B) The program is provided to children under the age of four years and nine months with sessions which run 12 hours per week or less and are 12 weeks or less in duration.

(*l*) Any similar facility determined by the director.

SEC. 1.1. Section 1505 of the Health and Safety Code is amended to read:

1505. This chapter does not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.

(d) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 727 of the Welfare and Institutions Code.

(e) Any child day care facility, as defined in Section 1596.75.

(f) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of the church or denomination.

(g) Any school dormitory or similar facility determined by the department.

(h) Any house, institution, hotel, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the director.

(i) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.

(j) Any cooperative arrangement between parents for the care of their children by one or more of the parents where no payment for the care is involved.

(k) Any arrangement for the receiving and care of persons by a

relative or any arrangement for the receiving and care of persons from only one family by a close friend of the parent, guardian, or conservator, if the arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the state department.

(*l*) Any public recreation program. "Public recreation program" means a program operated by the state, city, county, special district, school district, community college district, chartered city, or chartered city and county which meets either of the following criteria:

(A) The program is provided for children over the age of four years and nine months and is in operation for either of the following periods:

(i) For under 13 hours per week.

(ii) For more than 12 hours per week and is for 12 weeks or less per year in duration.

(B) The program is provided to children under the age of four years and nine months with sessions which run 12 hours per week or less and are 12 weeks or less in duration.

(m) Any similar facility determined by the director.

SEC. 1.2. Section 1505 of the Health and Safety Code is amended to read:

1505. This chapter does not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.

(d) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 727 of the Welfare and Institutions Code.

(e) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of the church or denomination.

(f) Any school dormitory or similar facility determined by the department.

(g) Any house, institution, hotel, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the director.

(h) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.

(i) Any alcoholism recovery facility as defined by Section 11834.11.

(j) Any cooperative arrangement between parents for the care of their children by one or more of the parents where no payment for the care is involved.

(k) Any arrangement for the receiving and care of persons by a

relative or any arrangement for the receiving and care of persons from only one family by a close friend of the parent, guardian, or conservator, if the arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the state department.

(*l*) Any public recreation program. "Public recreation program" means a program operated by the state, city, county, special district, school district, community college district, chartered city, or chartered city and county which meets either of the following criteria:

(A) The program is provided for children over the age of four years and nine months and is in operation for either of the following periods:

(i) For under 13 hours per week.

(ii) For more than 12 hours per week and is for 12 weeks or less per year in duration.

(B) The program is provided to children under the age of four years and nine months with sessions which run 12 hours per week or less and are 12 weeks or less in duration.

(m) Any similar facility determined by the director.

SEC. 1.3. Section 1505 of the Health and Safety Code is amended to read:

1505. This chapter does not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.

(d) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 727 of the Welfare and Institutions Code.

(e) Any child day care facility, as defined in Section 1596.75.

(f) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of the church or denomination.

(g) Any school dormitory or similar facility determined by the department.

(h) Any house, institution, hotel, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the director.

(i) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.

(j) Any alcoholism recovery facility as defined by Section 11834.11.

(k) Any cooperative arrangement between parents for the care of their children by one or more of the parents where no payment for the care is involved.

(*l*) Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons from only one family by a close friend of the parent, guardian, or conservator, if the arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the state department.

(m) Any public recreation program. "Public recreation program" means a program operated by the state, city, county, special district, school district, community college district, chartered city, or chartered city and county which meets either of the following criteria:

(A) The program is provided for children over the age of four years and nine months and is in operation for either of the following periods:

(i) For under 13 hours per week.

(ii) For more than 12 hours per week and is for 12 weeks or less per year in duration.

(B) The program is provided to children under the age of four years and nine months with sessions which run 12 hours per week or less and are 12 weeks or less in duration.

(n) Any similar facility determined by the director.

SEC. 2. Section 1508 of the Health and Safety Code is amended to read:

1508. No person, firm, partnership, association, or corporation within the state and no state or local public agency shall operate, establish, manage, conduct, or maintain a community care facility in this state, without first obtaining a license therefor as provided in this chapter.

No person, firm, partnership, association, or corporation within the state and no state or local public agency shall provide specialized services within a community care facility in this state, without first obtaining a special permit therefor as provided in this chapter.

Except for a juvenile hall operated by a county or a public recreation program, this section applies to community care facilities directly operated by a state or local public agency. Each community care facility operated by a state or local public agency shall comply with the standards established by the director for community care facilities.

As used in this chapter, "local public agency" means a city, county, special district, school district, community college district, chartered city, or chartered city and county.

SEC. 3. Section 1508.5 is added to the Health and Safety Code, to read:

1508.5. Notwithstanding Section 1520, the department shall develop and adopt a separate license application form for the state and local public agencies that reflects the attributes of these applicants and supplies the information required therefrom in order to serve the purposes of this chapter.

The application form adopted by the department under this

section shall be developed in consultation with the League of California Cities, the California Parks and Recreation Society, and any other affected party. The application shall reflect attributes of these agencies, including, but not limited to, the type of facilities used, time constraints, existing recordkeeping, staffing qualifications, and existing local ordinances which ensure minimum levels of health and safety.

SEC. 3.5. The State Department of Social Services shall conduct a statewide study of preschool programs operated by local public agencies and make a report to the Legislature by January 1, 1986, on the results of this study. "Preschool programs" means programs offered for children age 4 years 9 months and under. The focus and scope of this study shall be determined by, and the findings of the study shall be reviewed by, a task force composed of the State Department of Social Services, the Legislative Analyst, the League of California Cities, the California Parks and Recreation Society, the Child Development Programs Advisory Committee, and representatives of childcare organizations and associations and other affected parties.

SEC. 4. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections, because this act merely clarifies, and makes no substantive change in, existing law.

SEC. 5. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 6. (a) Section 1.1 of this bill incorporates amendments to Section 1505 of the Health and Safety Code proposed by both this bill and SB 1754. It shall only become operative if (1) both bills are enacted and become effective January 1, 1985, (2) each bill amends Section 1505 of the Health and Safety Code, and (3) SB 2274 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1754, in which case Sections 1, 1.2, and 1.3 of this bill shall not become operative.

(b) Section 1.2 of this bill incorporates amendments to Section 1505 of the Health and Safety Code proposed by both this bill and SB 2274. It shall only become operative if (1) both bills are enacted and become effective January 1, 1985, (2) each bill amends Section 1505 of the Health and Safety Code, (3) SB 1754 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 2274, in which case Sections 1, 1.1, and 1.3 of this bill shall not become operative.

(c) Section 1.3 of this bill incorporates amendments to Section 1505 of the Health and Safety Code proposed by this bill, SB 1754, and SB 2274. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1985, (2) all three bills amend Section 1505 of the Health and Safety Code, and (3) this bill

is enacted after SB 1754 and SB 2274, in which case Sections 1, 1.1, and 1.2 of this bill shall not become operative.

CHAPTER 1487

An act to amend Section 1528 of, and to add Section 1527.5 to, the Health and Safety Code, relating to day care facilities for children, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 1527.5 is added to the Health and Safety Code, to read:

1527.5. The Legislature finds and declares all of the following:

(a) An alarming number of incidents of child abuse have occurred in state-licensed child day care facilities.

(b) The state has a responsibility to ensure that children are cared for in a healthy environment.

(c) Early detection and prevention of child abuse is vital in solving this problem.

(d) Prevention of child abuse is facilitated by the prompt and full communication between government agencies of information about suspected incidents of child abuse.

(e) The Community Care Licensing Division of the State Department of Social Services shall be responsible for combating child abuse in day care facilities. The department shall develop programs and cooperate with parents, children, community groups, and local and state law enforcement to prevent and detect child abuse.

SEC. 2. Section 1528 of the Health and Safety Code is amended to read:

1528. (a) Licensing reviews, pursuant to Sections 1534 and 1535, of care and services of a day care facility for children shall be limited to health and safety considerations and shall not include any reviews of the content of any educational or training program of the facility. These licensing reviews shall be conducted not less than once every two years.

(b) The state department shall maintain a program to carry out the licensing and inspection activities for day care facilities for children in order that the health and safety of children receiving the services is protected. The state department shall maintain staff of adequate size and expertise to carry out the licensing and inspection program for day care facilities for children in order that the health and safety of children receiving services is protected. The state department shall license and inspect day care facilities for children

in accordance with this chapter and shall not maintain a self-certification and inspection program with respect to these facilities, except for the pilot registration program established pursuant to Section 1528.5.

The state department shall, in its inspections pursuant to this subdivision, inspect for evidence of child abuse, as defined in subdivision (g) of Section 11165 of the Penal Code. All inspectors shall receive periodic training in the detection and prevention of the exploitation or abuse of children. Any inspector who, within the scope of his or her employment, has knowledge of or observes a child whom he or she knows or reasonably suspects has been the victim of child abuse shall report the known or suspected incidence of exploitation or abuse to a child protective agency, and shall send a written report within 36 hours to the agency selected, pursuant to Section 11166 of the Penal Code.

Nothing in this section shall preclude the state department from contracting with other agencies for services pursuant to Section 1511 in lieu of performing services directly.

(c) Review of day care facilities for children, as defined in Section 1527, shall be limited to inspection for compliance with this chapter, and shall not include evaluations and rating scales as specified in Sections 1534, 1535, and 1536.

(d) When the licensing agency determines that a family day care home for children is operating without a license and notifies the unlicensed provider of the requirement for a license, the licensing agency may issue a cease and desist order only if it finds and documents that continued operation of the facility will be dangerous to the health and safety of the children. In all other cases where the licensing agency determines such a facility is operating without a license and notifies the unlicensed provider of the requirements for a license, the licensing agency may issue a cease and desist order only if the unlicensed provider does not apply for a license within a reasonable time after the notice.

It is the intent of the Legislature in enacting this subdivision to ensure substantial compliance with the purpose of this article, which is the protection of the health and safety of children.

SEC. 3. If both this bill and SB 1754 are chaptered in the 1983–84 Legislative Session, it is the intention of the Legislature that the provisions of both bills take effect.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that child abuse occurring in day care centers may be detected immediately, and that the state may act immediately to prevent this abuse, it is necessary that this act take effect immediately.

CHAPTER 1488

An act to amend Sections 1026, 1026.1, 1026.2, 1026.3, 1026.5, 1601, 1603, 1609, 1610, and 1612 of, to add Section 1603 to, and to repeal Sections 1026.1, 1603, and 1611 of, the Penal Code, and to amend Section 702.3 of the Welfare and Institutions Code, relating to insanity.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 27, 1984.]

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

SECTION 1. Section 1026 of the Penal Code is amended to read:

1026. (a) When a defendant pleads not guilty by reason of insanity, and also joins with it another plea or pleas, the defendant shall first be tried as if only such other plea or pleas had been entered, and in that trial the defendant shall be conclusively presumed to have been sane at the time the offense is alleged to have been committed. If the jury shall find the defendant guilty, or if the defendant pleads only not guilty by reason of insanity, then the question whether the defendant was sane or insane at the time the offense was committed shall be promptly tried, either before the same jury or before a new jury in the discretion of the court. In that trial, the jury shall return a verdict either that the defendant was sane at the time the offense was committed or was insane at the time the offense was committed. If the verdict or finding is that the defendant was sane at the time the offense was committed, the court shall sentence the defendant as provided by law. If the verdict or finding be that the defendant was insane at the time the offense was committed, the court, unless it shall appear to the court that the sanity of the defendant has been recovered fully, shall direct that the defendant be confined in a state hospital for the care and treatment of the mentally disordered or any other appropriate public or private treatment facility approved by the county mental health director, or the court may order the defendant placed on outpatient status pursuant to Title 15 (commencing with Section 1600) of Part 2. The court shall transmit a copy of its order to the county mental health director or a designee, and if the defendant is ordered confined in a state hospital or other treatment facility, copies of the arrest reports and the report of the county mental health director required under subdivision (b) shall accompany the person to the state hospital or other treatment facility where the defendant is to be confined.

(b) Prior to making such order directing that the defendant be confined in a state hospital or other treatment facility or placed on outpatient status, the court shall order the county mental health director or a designee to evaluate the defendant and to submit to the court within 15 judicial days of the order a written recommendation as to whether the defendant should be placed on outpatient status or

confined in a state hospital or other treatment facility. No person shall be admitted to a state hospital or other treatment facility or placed on outpatient status under this section without having been evaluated by the county mental health director or a designee. If, however, it shall appear to the court that the sanity of the defendant has been recovered fully, the defendant shall be remanded to the custody of the sheriff until the issue of sanity shall have been finally determined in the manner prescribed by law. A defendant committed to a state hospital or other treatment facility or placed on outpatient status pursuant to Title 15 (commencing with Section 1600) of Part 2 shall not be released from confinement, parole, or outpatient status unless and until the court which committed the person shall, after notice and hearing, find and determine that the person's sanity has been restored. Nothing in this section shall prevent the transfer of such person from one state hospital to any other state hospital by proper authority or the transfer of the patient to a hospital in another state in the manner provided by law, upon order of the superior court in the county from which the person was committed, or in which the person is detained.

(c) If the defendant is committed or transferred to a state hospital pursuant to this section, the court may, upon receiving the written recommendation of the medical director of the state hospital and the county mental health director that the defendant be transferred to a public or private treatment facility approved by the county mental health director, order the defendant transferred to that facility. If the defendant is committed or transferred to a public or private treatment facility approved by the county mental health director, the court may, upon receiving the written recommendation of the county mental health director, order the defendant transferred to a state hospital or to another public or private treatment facility approved by the county mental health director. Where either the defendant or the prosecuting attorney chooses to contest either kind of order of transfer, a petition may be filed in the court requesting a hearing which shall be held if the court determines that sufficient grounds exist. At that hearing, the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same standards as used in conducting probation revocation hearings pursuant to Section 1203.2.

(d) Prior to making an order for transfer under this section, the court shall notify the defendant, the attorney of record for the defendant, the prosecuting attorney, and the county mental health director or a designee.

(e) If the defendant is confined in a state hospital or other treatment facility as an inpatient or is on parole under the provisions of subdivision (a) or (b) of Section 1611, the medical director of the facility shall, at six-month intervals, submit a report in writing to the court and the county mental health director of the county of commitment or a designee setting forth the status and progress of the defendant. The court shall transmit copies of these reports to the

prosecutor and defense counsel.

(f) When directing that the defendant be confined in a state hospital pursuant to subdivision (a), the court shall select the state hospital in accordance with the policies established by the Department of Mental Health.

SEC. 1.5. Section 1026 of the Penal Code is amended to read:

1026. (a) When a defendant pleads not guilty by reason of insanity, and also joins with it another plea or pleas, the defendant shall first be tried as if only such other plea or pleas had been entered, and in that trial the defendant shall be conclusively presumed to have been sane at the time the offense is alleged to have been committed. If the jury shall find the defendant guilty, or if the defendant pleads only not guilty by reason of insanity, then the question whether the defendant was sane or insane at the time the offense was committed shall be promptly tried, either before the same jury or before a new jury in the discretion of the court. In that trial, the jury shall return a verdict either that the defendant was sane at the time the offense was committed or was insane at the time the offense was committed. If the verdict or finding is that the defendant was sane at the time the offense was committed, the court shall sentence the defendant as provided by law. If the verdict or finding be that the defendant was insane at the time the offense was committed, the court, unless it shall appear to the court that the sanity of the defendant has been recovered fully, shall direct that the defendant be confined in a state hospital for the care and treatment of the mentally disordered or any other appropriate public or private treatment facility approved by the county mental health director, or the court may order the defendant placed on outpatient status pursuant to Title 15 (commencing with Section 1600) of Part 2. The court shall transmit a copy of its order to the county mental health director or a designee, and if the defendant is ordered confined in a state hospital or other treatment facility, copies of the arrest reports and the report of the county mental health director required under subdivision (b) shall accompany the person to the state hospital or other treatment facility where the defendant is to be confined.

(b) Prior to making such order directing that the defendant be confined in a state hospital or other treatment facility or placed on outpatient status, the court shall order the county mental health director or a designee to evaluate the defendant and to submit to the court within 15 judicial days of the order a written recommendation as to whether the defendant should be placed on outpatient status or confined in a state hospital or other treatment facility. No person shall be admitted to a state hospital or other treatment facility or placed on outpatient status under this section without having been evaluated by the county mental health director or a designee. If, however, it shall appear to the court that the sanity of the defendant has been recovered fully, the defendant shall be remanded to the custody of the sheriff until the issue of sanity shall have been finally determined in the manner prescribed by law. A defendant

committed to a state hospital or other treatment facility or placed on outpatient status pursuant to Title 15 (commencing with Section 1600) of Part 2 shall not be released from confinement, parole, or outpatient status unless and until the court which committed the person shall, after notice and hearing, find and determine that the person's sanity has been restored. Nothing in this section shall prevent the transfer of such person from one state hospital to any other state hospital by proper authority. Nothing in this section shall prevent the transfer of the patient to a hospital in another state in the manner provided in Section 4119 of the Welfare and Institutions Code.

(c) If the defendant is committed or transferred to a state hospital pursuant to this section, the court may, upon receiving the written recommendation of the medical director of the state hospital and the county mental health director that the defendant be transferred to a public or private treatment facility approved by the county mental health director, order the defendant transferred to that facility. If the defendant is committed or transferred to a public or private treatment facility approved by the county mental health director, the court may, upon receiving the written recommendation of the county mental health director, order the defendant transferred to a state hospital or to another public or private treatment facility approved by the county mental health director. Where either the defendant or the prosecuting attorney chooses to contest either kind of order of transfer, a petition may be filed in the court requesting a hearing which shall be held if the court determines that sufficient grounds exist. At that hearing, the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same procedures and standards of proof as used in conducting probation revocation hearings pursuant to Section 1203.2.

(d) Prior to making an order for transfer under this section, the court shall notify the defendant, the attorney of record for the defendant, the prosecuting attorney, and the county mental health director or a designee.

(e) If the defendant is confined in a state hospital or other treatment facility as an inpatient or is on parole under the provisions of subdivision (a) or (b) of Section 1611, the medical director of the facility shall, at six-month intervals, submit a report in writing to the court and the county mental health director of the county of commitment or a designee setting forth the status and progress of the defendant. The court shall transmit copies of these reports to the prosecutor and defense counsel.

(f) When directing that the defendant be confined in a state hospital pursuant to subdivision (a), the court shall select the state hospital in accordance with the policies established by the Department of Mental Health.

SEC. 2. Section 1026.1 of the Penal Code is amended to read:

1026.1. A person committed to a state hospital or other treatment

facility under the provisions of Section 1026 shall be released from the state hospital or other treatment facility only under one or more of the following circumstances:

(a) Pursuant to the provisions of Section 1026.2.

(b) Upon expiration of the maximum term of commitment as provided in subdivision (a) of Section 1026.5, except as such term may be extended under the provisions of subdivision (b) of Section 1026.5.

(c) As otherwise expressly provided in Title 15 (commencing with Section 1600) of Part 2.

SEC. 3. Section 1026.2 of the Penal Code is amended to read:

1026.2. (a) An application for the release of a person who has been committed to a state hospital or other treatment facility, as provided in Section 1026, upon the ground that sanity has been restored, may be made to the superior court of the county from which the commitment was made, either by such person, or by the medical director of the state hospital or other treatment facility to which the person is committed or by the county mental health director where the person is on outpatient status under Title 15 (commencing with Section 1600) of Part 2. The applicant shall transmit a copy of the application to the county mental health director or a designee. The court shall give notice of the hearing date to the prosecuting attorney, the county mental health director or a designee and to the Director of Mental Health. No hearing upon the application shall be allowed until the person committed shall have been confined or placed on outpatient status or on parole under Section 1611 for a period of not less than 180 days from the date of the order of commitment.

(b) The court shall hold a hearing to determine if the person applying for restoration of sanity would no longer be a danger to the health and safety of others, including himself or herself, if under supervision and treatment in the community. If the court at the hearing determines the applicant will not be a danger to the health and safety of others, including himself or herself, while under supervision and treatment in the community, the court shall order the applicant placed with an appropriate local mental health program for one year. All or a substantial portion of the program shall include outpatient supervision and treatment. The court shall retain jurisdiction. The court at the end of the one year, shall have a trial to determine if sanity has been restored, which means the applicant is no longer a danger to the health and safety of others, including himself or herself. The court shall not determine whether the applicant has been restored to sanity until the applicant has completed the one year in the appropriate local mental health program. The court shall notify the persons required to be notified in subdivision (a) of the hearing date.

(c) If the applicant is on parole or outpatient status and has been on it for one year or longer, then it is deemed that the applicant has completed the required one year in an appropriate local mental

health program and the court shall, if all other applicable provisions of law have been met, hold the trial on restoration of sanity as provided for in this section.

(d) Before placing an applicant in an appropriate local mental health program, the county mental health director shall submit to the court a written recommendation as to what local mental health program is the most appropriate for supervising and treating the applicant. If the court does not accept the county mental health director's recommendation, the court shall specify the reason or reasons for its order on the court record. The provisions of Sections 1605 to 1610.5, inclusive, shall be applicable to the person placed in the local mental health program unless otherwise ordered by the court.

(e) If the court determines that the person should be transferred to an appropriate local mental health program, the county mental health director or a designee shall make the necessary placement arrangements, and, within 21 days after receiving notice of the court finding, the person shall be placed in the community in accordance with the treatment and supervision plan, unless good cause for not doing so is made known to the court.

(f) If at the trial for restoration of sanity the court rules adversely to the applicant, the court may place the applicant on outpatient status, pursuant to Title 15 (commencing with Section 1600) of Part 2, unless by a preponderance of the evidence it is shown the applicant does not meet the requirements of Section 1603.

(g) If the court denies the application to place the person in an appropriate local mental health program or if restoration of sanity is denied, no new application may be filed by the person until one year has elapsed from the date of the denial.

(h) In any hearing authorized by this section the applicant shall have the burden of proof by a preponderance of the evidence.

If the application for the release is not made by the medical director of the state hospital or other treatment facility to which the person is committed, no action on the application shall be taken by the court without first obtaining the written recommendation of the medical director of the state hospital or other treatment facility.

(i) This section shall become operative on January 1, 1986, and shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1989, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1989, pursuant to Section 9611 of the Government Code, Section 1026.2 of the Penal Code, as amended by Section 1 of Chapter 930 of the Statutes of 1982, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 3.5. Section 1026.2 of the Penal Code is amended to read:

1026.2. (a) An application for the release of a person who has been committed to a state hospital or other treatment facility, as provided in Section 1026, upon the ground that sanity has been

restored, may be made to the superior court of the county from which the commitment was made, either by the person, or by the medical director of the state hospital or other treatment facility to which the person is committed or by the county mental health director where the person is on outpatient status under Title 15 (commencing with Section 1600) of Part 2. The court shall give notice of the hearing date to the prosecuting attorney, the county mental health director or a designee, and the medical director or person in charge of the facility providing treatment to the committed person at least 15 judicial days in advance of the hearing date.

(b) Pending the hearing, the medical director or person in charge of the facility in which the person is confined shall prepare a summary of the person's programs of treatment and shall forward the summary to the county mental health director or a designee and to the court. The county mental health director or a designee shall review the summary and shall designate a facility within a reasonable distance from the court in which the person may be detained pending the hearing on the application for release. The facility so designated shall continue the program of treatment, shall provide adequate security, and shall, to the greatest extent possible, minimize interference with the person's program of treatment.

(c) A designated facility need not be approved for 72-hour treatment and evaluation pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code); however, a county jail may not be designated unless the services specified above are provided, and accommodations are provided which ensure both the safety of the person and the safety of the general population of the jail. If there is evidence that the treatment program is not being complied with, or accommodations have not been provided which ensure both the safety of the committed person and the safety of the general population of the jail, the court shall order the person transferred to an appropriate facility or make any other appropriate order, including continuance of the proceedings.

(d) No hearing upon the application shall be allowed until the person committed shall have been confined or placed on outpatient status or on parole under Section 1611 for a period of not less than 180 days from the date of the order of commitment.

(e) The court shall hold a hearing to determine if the person applying for restoration of sanity would no longer be a danger to the health and safety of others, including himself or herself, if under supervision and treatment in the community. If the court at the hearing determines the applicant will not be a danger to the health and safety of others, including himself or herself, while under supervision and treatment in the community, the court shall order the applicant placed with an appropriate local mental health program for one year. All or a substantial portion of the program shall include outpatient supervision and treatment. The court shall retain

jurisdiction. The court at the end of the one year, shall have a trial to determine if sanity has been restored, which means the applicant is no longer a danger to the health and safety of others, including himself or herself. The court shall not determine whether the applicant has been restored to sanity until the applicant has completed the one year in the appropriate local mental health program. The court shall notify the persons required to be notified in subdivision (a) of the hearing date.

(f) If the applicant is on parole or outpatient status and has been on it for one year or longer, then it is deemed that the applicant has completed the required one year in an appropriate local mental health program and the court shall, if all other applicable provisions of law have been met, hold the trial on restoration of sanity as provided for in this section.

(g) Before placing an applicant in an appropriate local mental health program, the county mental health director shall submit to the court a written recommendation as to what local mental health program is the most appropriate for supervising and treating the applicant. If the court does not accept the county mental health director's recommendation, the court shall specify the reason or reasons for its order on the court record. The provisions of Sections 1605 to 1610.5, inclusive, shall be applicable to the person placed in the local mental health program unless otherwise ordered by the court.

(h) If the court determines that the person should be transferred to an appropriate local mental health program, the county mental health director or a designee shall make the necessary placement arrangements, and, within 21 days after receiving notice of the court finding, the person shall be placed in the community in accordance with the treatment and supervision plan, unless good cause for not doing so is made known to the court.

(i) If at the trial for restoration of sanity the court rules adversely to the applicant, the court may place the applicant on outpatient status, pursuant to Title 15 (commencing with Section 1600) of Part 2, unless by a preponderance of the evidence it is shown the applicant does not meet the requirements of Section 1603.

(j) If the court denies the application to place the person in an appropriate local mental health program or if restoration of sanity is denied, no new application may be filed by the person until one year has elapsed from the date of the denial.

(k) In any hearing authorized by this section the applicant shall have the burden of proof by a preponderance of the evidence.

(*l*) If the application for the release is not made by the medical director of the state hospital or other treatment facility to which the person is committed or by the county mental health director where the person is on outpatient status under Title 15 (commencing with Section 1600), no action on the application shall be taken by the court without first obtaining the written recommendation of the medical director of the state hospital or other treatment facility or by the

county mental health director where the person is on outpatient status under Title 15 (commencing with Section 1600).

(m) This section shall become operative on January 1, 1986, and shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1989, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1989, pursuant to Section 9611 of the Government Code, Section 1026.2 of the Penal Code, as amended by Section 1 of SB 1477 of the 1983–84 Regular Session, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 4. Section 1026.3 of the Penal Code is amended to read:

1026.3. A person committed to a state hospital or other treatment facility under the provisions of Section 1026, and a person placed pursuant to subdivision (b) of Section 1026.2, may be placed on outpatient status from such commitment as provided in Title 15 (commencing with Section 1600) of Part 2.

SEC. 5. Section 1026.5 of the Penal Code is amended to read:

1026.5. (a) (1) In the case of any person committed to a state hospital or other treatment facility pursuant to Section 1026 or placed on outpatient status pursuant to Section 1604, who committed a felony on or after July 1, 1977, the court shall state in the commitment order the maximum term of commitment, and the person may not be kept in actual custody longer than the maximum term of commitment, except as provided in this section. For the purposes of this section, "maximum term of commitment" shall mean the longest term of imprisonment which could have been imposed for the offense or offenses of which the person was convicted, including the upper term of the base offense and any additional terms for enhancements and consecutive sentences which could have been imposed less any applicable credits as defined by Section 2900.5, and disregarding any credits which could have been earned pursuant to Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3.

(2) In the case of a person confined in a state hospital or other treatment facility pursuant to Section 1026 or placed on outpatient status pursuant to Section 1604, who committed a felony prior to July 1, 1977, and who could have been sentenced under Section 1168 or 1170 if the offense was committed after July 1, 1977, the Board of Prison Terms shall determine the maximum term of commitment which could have been imposed under paragraph (1), and the person may not be kept in actual custody longer than the maximum term of commitment, except as provided in subdivision (b). The time limits of this section are not jurisdictional.

In fixing a term under this section, the board shall utilize the upper term of imprisonment which could have been imposed for the offense or offenses of which the person was convicted, increased by any additional terms which could have been imposed based on matters which were found to be true in the committing court.

However, if at least two of the members of the board after reviewing the person's file determine that a longer term should be imposed for the reasons specified in Section 1170.2, a longer term may be imposed following the procedures and guidelines set forth in Section 1170.2, except that any hearings deemed necessary by the board shall be held within 90 days of September 28, 1979. Within 90 days of the date the person is received by the state hospital or other treatment facility, or of September 28, 1979, whichever is later, the Board of Prison Terms shall provide each person with the determination of the person's maximum term of commitment or shall notify such person that a hearing will be scheduled to determine the term.

Within 20 days following the determination of the maximum term of commitment the board shall provide the person, the prosecuting attorney, the committing court, and the state hospital or other treatment facility with a written statement setting forth the maximum term of commitment, the calculations, and any materials considered in determining the maximum term.

(3) In the case of a person committed to a state hospital or other treatment facility pursuant to Section 1026 or placed on outpatient status pursuant to Section 1604 who committed a misdemeanor, the maximum term of commitment shall be the longest term of county jail confinement which could have been imposed for the offense or offenses which the person was found to have committed, and the person may not be kept in actual custody longer than this maximum term.

(4) Nothing in this subdivision limits the power of any state hospital or other treatment facility or of the committing court to release the person, conditionally or otherwise, for any period of time allowed by any other provision of law.

(b) (1) A person may be committed beyond the term prescribed by subdivision (a) only under the procedure set forth in this subdivision and only if such person has been committed under Section 1026 for a felony, and who by reason of a mental disease, defect, or disorder represents a substantial danger of physical harm to others.

(2) Not later than 180 days prior to the termination of the maximum term of commitment prescribed in subdivision (a), the medical director of a state hospital or other treatment facility shall submit to the prosecuting attorney his or her opinion as to whether or not the patient is a person described in paragraph (1). If requested by the prosecuting attorney, the opinion shall be accompanied by supporting evaluations and relevant hospital records. The prosecuting attorney may then file a petition for extended commitment in the superior court which issued the original commitment. Such petition shall be filed no later than 90 days before the expiration of the original commitment unless good cause is shown. Such petition shall state the reasons for the extended commitment, with accompanying affidavits specifying the factual basis for believing that the person meets each of the requirements

set forth in paragraph (1).

(3) When such a petition is filed, the court shall advise the person named in the petition of the right to be represented by an attorney and of the right to a jury trial. The rules of discovery in criminal cases shall apply.

(4) The court shall conduct a hearing on the petition for extended commitment. The trial shall be by jury unless waived by both the person and the prosecuting attorney. The trial shall commence no later than 30 calendar days prior to the time the person would otherwise have been released, unless such time is waived by the person or unless good cause is shown.

(5) The person shall be entitled to the rights guaranteed under the federal and state Constitutions for criminal proceedings. All proceedings shall be in accordance with applicable constitutional guarantees. The state shall be represented by the district attorney who shall notify the Attorney General in writing that a case has been referred under this section. If the person is indigent, the county public defender or State Public Defender shall be appointed. The State Public Defender may provide for representation of the person in any manner authorized by Section 15402 of the Government Code. Appointment of necessary psychologists or psychiatrists shall be made in accordance with this article and Penal Code and Evidence Code provisions applicable to criminal defendants who have entered pleas of not guilty by reason of insanity.

(6) If the court or jury finds that the patient is a person described in paragraph (1), the court shall order the patient recommitted to the facility in which the patient was confined at the time the petition was filed. Any such commitment shall be for an additional period of two years from the date of termination of the previous commitment.

(7) A person committed under this subdivision shall be eligible for release to outpatient status pursuant to the provisions of Title 15 (commencing with Section 1600) of Part 2.

(8) Prior to termination of a commitment under this subdivision, a petition for recommitment may be filed to determine whether the patient remains a person described in paragraph (1). Such recommitment proceeding shall be conducted in accordance with the provisions of this subdivision.

(9) Any commitment under this subdivision places an affirmative obligation on the treatment facility to provide treatment for the underlying causes of the person's mental disorder.

SEC. 6. Section 1601 of the Penal Code is amended to read:

1601. (a) In the case of any person charged with and found incompetent on a charge of, convicted of, or found not guilty by reason of insanity of murder, mayhem, a violation of Section 207 or 209 in which the victim suffers intentionally inflicted great bodily injury, robbery with a deadly or dangerous weapon or in which the victim suffers great bodily injury, a violation of subdivision (a) or (b) of Section 451, a violation of subdivision 2 or 3 of Section 261, a violation of Section 459 in the first degree, assault with intent to

commit murder, a violation of Section 220 in which the victim suffers great bodily injury, a violation of Section 288, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310, or any felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, outpatient status under this title shall not be available until such person has actually been confined in a state hospital or other facility for 180 days or more after having been committed under the provisions of law specified in Section 1600.

(b) In the case of any person charged with, and found incompetent on a charge of, or convicted of, any misdemeanor or any felony other than those described in subdivision (a), or found not guilty of any misdemeanor by reason of insanity, outpatient status under this title may be granted by the court prior to actual confinement in a state hospital or other treatment facility under the provisions of law specified in Section 1600.

SEC. 7. Section 1603 of the Penal Code, as amended by Chapter 1232 of the Statutes of 1982, is amended to read:

1603. (a) Any person subject to the provisions of subdivision (a) of Section 1601 may be placed on outpatient status if all of the following conditions are satisfied:

(1) The director of the state hospital or other treatment facility to which the person has been committed advises the committing court that the defendant would no longer be a danger to the health and safety of others while on outpatient status, and will benefit from such status.

(2) The county mental health director advises the court that the defendant will benefit from such status, and identifies an appropriate program of supervision and treatment.

(3) After actual notice to the prosecutor and defense counsel, and to the victim or next of kin of the victim of the offense for which the person was committed where a request for such notice has been filed with the court, and after a hearing in court, the court specifically approves the recommendation and plan for outpatient status pursuant to Section 1604. The burden shall be on the victim or next of kin to the victim to keep the court apprised of the party's current mailing address.

In any case in which the victim or next of kin to the victim has filed a request for notice with the director of the state hospital or other treatment facility, he or she shall be notified by the director at the inception of any program in which the committed person would be allowed any type of day release unattended by the staff of the facility.

(c) The county mental health director shall prepare and submit the evaluation and the treatment plan specified in paragraphs (1) and (2) of subdivision (a) to the court within 30 calendar days after notification by the court to do so.

(d) Any evaluations and recommendations pursuant to paragraphs (1) and (2) of subdivision (a) shall include review and consideration of complete, available information regarding the

circumstances of the criminal offense and the person's prior criminal history.

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

SEC. 7.5. Section 1603 is added to the Penal Code, to read:

1603. (a) Any person subject to the provisions of subdivision (a) of Section 1601 may be placed on outpatient status if all of the following conditions are satisfied:

(1) The director of the state hospital or other treatment facility to which the person has been committed advises the committing court that the defendant is no longer likely to be a danger to the health and safety of others while on outpatient status, and will benefit from such status.

(2) The county mental health director advises the court that the defendant will benefit from such status, and identifies an appropriate program of supervision and treatment.

(3) After actual notice to the prosecutor and defense counsel, and to the victim or next of kin of the victim of the offense for which the person was committed where a request for such notice has been filed with the court, and after a hearing in court, the court specifically approves the recommendation and plan for outpatient status pursuant to Section 1604. The burden shall be on the victim or next of kin to the victim to keep the court apprised of the party's current mailing address.

In any case in which the victim or next of kin to the victim has filed a request for notice with the director of the state hospital or other treatment facility, he or she shall be notified by the director at the inception of any program in which the committed person would be allowed any type of day release unattended by the staff of the facility.

(c) The county mental health director shall prepare and submit the evaluation and the treatment plan specified in paragraphs (1) and (2) of subdivision (a) to the court within 30 calendar days after notification by the court to do so.

(d) Any evaluations and recommendations pursuant to paragraphs (1) and (2) of subdivision (a) shall include review and consideration of complete, available information regarding the circumstances of the criminal offense and the person's prior criminal history.

(e) This section shall become operative on January 1, 1988, and shall remain in effect only until January 1, 1989, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends that date.

SEC. 8. Section 1603 of the Penal Code, as amended by Chapter 142 of the Statutes of 1983, is amended to read:

1603. (a) Any person subject to subdivision (a) of Section 1601 may be placed on outpatient status if all of the following conditions are satisfied:

(1) The director of the state hospital or other treatment facility to

which the person has been committed advises the committing court that the defendant is no longer likely to be a danger to the health and safety of others while on outpatient status, and will benefit from that status.

(2) The county mental health director advises the court that the defendant will benefit from that status, and identifies an appropriate program of supervision and treatment.

(3) After actual notice to the prosecutor and defense counsel, and after a hearing in court, the court specifically approves the recommendation and plan for outpatient status pursuant to Section 1604.

(b) The county mental health director shall prepare and submit the evaluation and the treatment plan specified in paragraphs (1) and (2) of subdivision (a) to the court within 30 calendar days after notification by the court to do so.

(c) Any evaluations and recommendations pursuant to paragraphs (1) and (2) of subdivision (a) shall include review and consideration of complete, available information regarding the circumstances of the criminal offense and the person's prior criminal history.

(d) This section shall become operative January 1, 1989.

SEC. 9. Section 1609 of the Penal Code is amended to read:

1609. If at any time during the outpatient period or placement with a local mental health program pursuant to subdivision (b) of Section 1026.2 the prosecutor is of the opinion that the person is a danger to the health and safety of others while on that status, the prosecutor may petition the court for a hearing to determine whether the person shall be continued on that status. Upon receipt of the petition, the court shall calendar the case for further proceedings within 15 judicial days and the clerk shall notify the person, the county mental health director, and the attorney of record for the person of the hearing date. Upon failure of the person to appear as noticed, if a proper affidavit of service and advisement has been filed with the court, the court may issue a body attachment for such person. If, after a hearing in court conducted using the same standards used in conducting probation revocation hearings pursuant to Section 1203.2, the judge determines that the person is a danger to the health and safety of others, the court shall order that the person be confined in a state hospital or other treatment facility which has been approved by the county mental health director.

SEC. 10. Section 1610 of the Penal Code is amended to read:

1610. Upon the filing of a request for revocation under Section 1608 or 1609 and pending the court's decision on revocation, the person subject to revocation may be confined in a state hospital or other treatment facility by the county mental health director when it is the opinion of that director that the person will now be a danger to self or to another while on outpatient status and that to delay hospitalization until the revocation hearing would pose an imminent risk of harm to the person or to another. Upon the request of the

county mental health director or a designee, a peace officer shall take, or cause to be taken, the person into custody and transport the person to a treatment facility for hospitalization under this section. The county mental health director shall notify the court in writing of the admission of the person to inpatient status and of the factual basis for the opinion that such immediate return to inpatient treatment was necessary. The court shall supply a copy of these documents to the prosecutor and defense counsel.

A person hospitalized under this section shall have the right to judicial review of the detention in the manner prescribed in Article 5 (commencing with Section 5275) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code and to an explanation of rights in the manner prescribed in Section 5352.1 of the Welfare and Institutions Code.

Nothing in this section shall prevent hospitalization pursuant to the provisions of Section 5150, 5250, 5350, or 5353 of the Welfare and Institutions Code.

A person whose confinement in a treatment facility under Section 1608 or 1609 is approved by the court shall not be released again to outpatient status unless court approval is obtained under Section 1602 or 1603.

SEC. 11. Section 1611 of the Penal Code is repealed.

SEC. 12. It is the intent of the Legislature that the court shall determine whether a person on parole, pursuant to former Section 1611 of the Penal Code, shall be returned to inpatient status or placed on outpatient status. It is further intended that any such person may make application for restoration of sanity as provided for in Section 1026.2 of the Penal Code.

SEC. 13. Section 1612 of the Penal Code is amended to read:

1612. Any person committed to a state hospital or other treatment facility under the provisions of Section 1026, or Chapter 6 (commencing with Section 1367) of Title 10 of this code, or former Section 6316 or 6321 of the Welfare and Institutions Code shall not be released therefrom except as expressly provided in this title or Section 1026.2.

SEC. 14. Section 702.3 of the Welfare and Institutions Code is amended to read:

702.3. Notwithstanding any other provision of the law:

(a) When a minor denies, by a plea of not guilty by reason of insanity, the allegations of a petition filed pursuant to Section 602 of the Welfare and Institutions Code, and also joins with that denial a general denial of the conduct alleged in the petition, he or she shall first be subject to a hearing as if he or she had made no allegation of insanity. If the petition is sustained or if the minor denies the allegations only by reason of insanity, then a hearing shall be held on the question of whether the minor was insane at the time the offense was committed.

(b) If the court finds that the minor was insane at the time the offense was committed, the court, unless it shall appear to the court

that the minor has fully recovered his or her sanity, shall direct that the minor be confined in a state hospital for the care and treatment of the mentally disordered or any other appropriate public or private mental health facility approved by the county mental health director, or the court may order the minor to undergo outpatient treatment as specified in Title 15 (commencing with Section 1600) of Part 2 of the Penal Code. The court shall transmit a copy of its order to the county mental health director or his or her designee. If the allegations of the petition specifying any felony are found to be true, the court shall direct that the minor be confined in a state hospital or other public or private mental health facility approved by the county mental health director for a minimum of 180 days, before such minor may be released on outpatient treatment. Prior to making such order directing that the minor be confined in a state hospital or other facility or ordered to undergo outpatient treatment, the court shall order the county mental health director or his or her designee to evaluate the minor and to submit to the court within 15 judicial days of such order his or her written recommendation as to whether the minor should be required to undergo outpatient treatment or committed to a state hospital or another mental health facility. If, however, it shall appear to the court that the minor has fully recovered his or her sanity such minor shall be remanded to the custody of the probation department until his or her sanity shall have been finally determined in the manner prescribed by law. A minor committed to a state hospital or other facility or ordered to undergo outpatient treatment shall not be released from confinement or the required outpatient treatment unless and until the court which committed him or her shall, after notice and hearing, in the manner provided in Section 1026.2 of the Penal Code, find and determine that his or her sanity has been restored.

(c) The procedures set forth in Sections 1026, 1026.1, 1026.2, and 1027 of the Penal Code and in Title 15 (commencing with Section 1600) of Part 2 of the Penal Code shall be applicable to minors pursuant to this section, except that, in cases involving minors, the probation department rather than the sheriff, shall have jurisdiction over the minor.

(d) No minor may be committed pursuant to this section for a period longer than the jurisdictional limits of the juvenile court, pursuant to Section 607.

(e) This section shall not be construed to authorize the determination of sanity in juvenile proceedings to be made by a jury.

SEC. 14.5. Section 702.3 of the Welfare and Institutions Code is amended to read:

702.3. Notwithstanding any other provision of the law:

(a) When a minor denies, by a plea of not guilty by reason of insanity, the allegations of a petition filed pursuant to Section 602 of the Welfare and Institutions Code, and also joins with that denial a general denial of the conduct alleged in the petition, he or she shall first be subject to a hearing as if he or she had made no allegation

of insanity. If the petition is sustained or if the minor denies the allegations only by reason of insanity, then a hearing shall be held on the question of whether the minor was insane at the time the offense was committed.

(b) If the court finds that the minor was insane at the time the offense was committed, the court, unless it shall appear to the court that the minor has fully recovered his or her sanity, shall direct that the minor be confined in a state hospital for the care and treatment of the mentally disordered or any other appropriate public or private mental health facility approved by the county mental health director, or the court may order the minor to undergo outpatient treatment as specified in Title 15 (commencing with Section 1600) of Part 2 of the Penal Code. The court shall transmit a copy of its order to the county mental health director or his or her designee. If the allegations of the petition specifying any felony are found to be true, the court shall direct that the minor be confined in a state hospital or other public or private mental health facility approved by the county mental health director for a minimum of 180 days, before the minor may be released on outpatient treatment. Prior to making the order directing that the minor be confined in a state hospital or other facility or ordered to undergo outpatient treatment, the court shall order the county mental health director or his or her designee to evaluate the minor and to submit to the court within 15 judicial days of the order his or her written recommendation as to whether the minor should be required to undergo outpatient treatment or committed to a state hospital or another mental health facility. If, however, it shall appear to the court that the minor has fully recovered his or her sanity the minor shall be remanded to the custody of the probation department until his or her sanity shall have been finally determined in the manner prescribed by law. A minor committed to a state hospital or other facility or ordered to undergo outpatient treatment shall not be released from confinement or the required outpatient treatment unless and until the court which committed him or her shall, after notice and hearing, in the manner provided in Section 1026.2 of the Penal Code, find and determine that his or her sanity has been restored.

(c) The procedures set forth in Sections 1026, 1026.1, 1026.2, 1026.3, 1026.4, 1026.5, and 1027 of the Penal Code, and in Title 15 (commencing with Section 1600) of Part 2 of the Penal Code, shall be applicable to minors pursuant to this section, except that, in cases involving minors, the probation department rather than the sheriff, shall have jurisdiction over the minor.

(d) No minor may be committed pursuant to this section for a period longer than the jurisdictional limits of the juvenile court, pursuant to Section 607, unless, at the conclusion of the commitment, by reason of a mental disease, defect, or disorder, he or she represents a substantial danger of physical harm to others, in which case the commitment for care and treatment beyond the jurisdictional age may be extended by proceedings in superior court

in accordance with and under the circumstances specified in subdivision (b) of Section 1026.5 of the Penal Code.

(e) The provision of a jury trial in superior court on the issue of extension of commitment shall not be construed to authorize the determination of any issue in juvenile court proceedings to be made by a jury.

SEC. 15. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 16. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 17. Sections 11 and 12 of this act shall become operative on January 1, 1986. Section 3 or 3.5 of this act shall become operative on January 1, 1986, and shall remain in effect as provided in those sections.

SEC. 18. Section 1.5 of this bill incorporates amendments to Section 1026 of the Penal Code proposed by both this bill and AB 3296. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 1026 of the Penal Code, and (3) this bill is enacted after AB 3296, in which case Section 1 of this bill shall not become operative.

SEC. 19. Section 3.5 of this bill incorporates amendments to Section 1026.2 of the Penal Code proposed by both this bill and SB 1477. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 1026.2 of the Penal Code, and (3) this bill is enacted after SB 1477, in which case Section 1026.2 of the Penal Code, as amended by SB 1477, shall remain operative until the operative date of this bill, at which time the temporary provision set forth in Section 3.5 of this bill shall become operative, and Section 3 of this bill shall not become operative. In that case, the temporary provision set forth in Section 3.5 of this bill shall remain in effect as provided in that section.

SEC. 20. Section 14.5 of this bill incorporates amendments to Section 702.3 of the Welfare and Institutions Code proposed by both this bill and AB 2253. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 702.3 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 2253, in which case Section 14 of this bill shall not become operative.

SEC. 21. The provisions of this act shall be applicable to persons presently confined in a state hospital or public or private treatment facility.

CHAPTER 1489

An act to amend Sections 311.2 and 311.4 of the Penal Code, relating to minors.

[Approved by Governor September 26, 1984. Filed with Secretary of State September 27, 1984.]

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

SECTION 1. Section 311.2 of the Penal Code is amended to read:

311.2. (a) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, or prints, with intent to distribute or to exhibit to others, or who offers to distribute, distributes, or exhibits to others, any obscene matter is guilty of a misdemeanor.

(b) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, develops, duplicates, or prints, with intent to distribute or to exhibit to, or to exchange with, others for commercial consideration, or who offers to distribute, distributes, or exhibits to, or exchanges with, others for commercial consideration, any obscene matter, knowing that the matter depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a felony and shall be punished by imprisonment in state prison for two, three, or four years, or by a fine not exceeding fifty thousand dollars ($50,000), in the absence of a finding that the defendant would be incapable of paying such a fine, or by both such fine and imprisonment.

(c) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, develops, duplicates, or prints, with intent to distribute or to exhibit to, or to exchange with, a person 18 years of age or older, or who offers to distribute, distributes, or exhibits to, or exchanges with, a person 18 years of age or older any matter, knowing that the matter depicts a person under the age of 17 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for up to one year, or by a fine not exceeding two thousand dollars ($2,000), or by both such fine and imprisonment. It is not necessary to prove commercial consideration or that the matter is obscene in order to establish a violation of this subdivision. If a person has been previously convicted of a violation of this subdivision, he or she is guilty of a felony.

(d) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution,

or in this state possesses, prepares, publishes, develops, duplicates, or prints, with intent to distribute or to exhibit to, or to exchange with, a person under 18 years of age, or who offers to distribute, distributes, or exhibits to, or exchanges with, a person under 18 years of age any matter, knowing that the matter depicts a person under the age of 17 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a felony. It is not necessary to prove commercial consideration or that the matter is obscene in order to establish a violation of this subdivision.

(e) Subdivisions (a) to (d), inclusive, shall not apply to the activities of law enforcement and prosecuting agencies in the investigation and prosecution of criminal offenses or to legitimate medical, scientific, or educational activities, or to lawful conduct between spouses.

(f) This section shall not apply to matter which depicts a child under the age of 18, which child is legally emancipated, including lawful conduct between spouses when one or both are under the age of 18.

SEC. 2. Section 311.4 of the Penal Code is amended to read:

311.4. (a) Every person who, with knowledge that a person is a minor, or who, while in possession of any facts on the basis of which he or she should reasonably know that the person is a minor, hires, employs, or uses the minor to do or assist in doing any of the acts described in Section 311.2, is guilty of a misdemeanor.

(b) Every person who, with knowledge that a person is a minor under the age of 17 years, or who, while in possession of any facts on the basis of which he or she should reasonably know that the person is a minor under the age of 17 years, knowingly promotes, employs, uses, persuades, induces, or coerces a minor under the age of 17 years, or any parent or guardian of a minor under the age of 17 years under his or her control who knowingly permits the minor, to engage in or assist others to engage in either posing or modeling alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving sexual conduct by a minor under the age of 17 years alone or with other persons or animals, for commercial purposes, is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.

(c) Every person who, with knowledge that a person is a minor under the age of 17 years, or who, while in possession of any facts on the basis of which he or she should reasonably know that the person is a minor under the age of 17 years, knowingly promotes, employs, uses, persuades, induces, or coerces a minor under the age of 17 years, or any parent or guardian of a minor under the age of 17 years under his or her control who knowingly permits the minor, to engage in or assist others to engage in either posing or modeling alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving sexual conduct by a minor under the age of 17 years alone or with other persons or animals, is guilty of a felony. It shall not be necessary to prove commercial purposes

in order to establish a violation of this subdivision.

(d) As used in subdivisions (b) and (c), "sexual conduct" means any of the following, whether actual or simulated: sexual intercourse, oral copulation, anal intercourse, anal oral copulation, masturbation, bestiality, sexual sadism, sexual masochism, penetration of the vagina or rectum by any object in a lewd or lascivious manner, exhibition of the genitals, pubic, or rectal area for the purpose of sexual stimulation of the viewer, any lewd or lascivious sexual act as defined in Section 288, or excretory functions performed in a lewd or lascivious manner, whether or not any of the above conduct is performed alone or between members of the same or opposite sex or between humans and animals. An act is simulated when it gives the appearance of being sexual conduct.

(e) This section shall not apply where the minor is legally emancipated, including lawful conduct between spouses when one or both are under the age of 17.

SEC. 3. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1490

An act to add Section 140 to the Business and Professions Code, to add Section 226.6 to the Labor Code, to amend Sections 6094.5, 6703, 7151, 7152, 7153, 18681, 18681.1, 18818, 18907, 18908, 19401, and 26191 of, and to add Sections 6485.1, 6514.1, 6830, 7059, 7155, 17299.8, 17299.9, 18409, 18681.3, 18681.4, 18681.6, 18802.3, 18802.4, 18817.5, 18837, 19272, 19273, 19274, 19286.8, 19411, 19411.1, 24447, 24448, 25961.5, 26132.5, 26254, 26426, and 26427 to, to add a heading immediately preceding Section 7051 of, to add Article 2 (commencing with Section 7070) to Chapter 8 of Part 1 of Division 2 of, and to add Article 3 (commencing with Section 19300) to Chapter 21 of Part 10 of Division 2 of, the Revenue and Taxation Code, relating to taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1984. Filed with Secretary of State September 27, 1984.]

I am reducing or deleting the following appropriations contained in Assembly Bill No. 3230:

1. I reduce the 1984–85 appropriation of $1,341,000 for Franchise Tax Board audit personnel and operating expenses and equipment to $58,000 to reflect only personnel and costs associated with specific provisions of the bill.

2. I reduce the 1984–85 appropriation of $362,500 for the Franchise Tax Board to carry out new collections activities to $314,000 to reflect a phase-in of staffing for these activities.

3. I reduce the 1984–85 appropriation for the Board of Equalization's field enforcement personnel and operating expenses and equipment for increased registration and collection efforts from $464,385 to $268,000. Since the amnesty period has been amended to begin later in the year, the 1984–85 post amnesty enforcement period is reduced from four months to two months. Therefore the appropriation should be reduced accordingly.

4. I eliminate the 1984–85 $282,852 appropriation for the Board of Equalization's audit personnel and operating expenses and equipment for investigation of the misuse of resale and exemption certificates. This function should be performed within existing staff resources by prioritizing existing audit workload.

5. I eliminate the 1985–86 appropriation of $3,697,000 to the Franchise Tax Board and $2,366,285 to the Board of Equalization so that these may be considered as part of the regular 1985–86 budget process.

With these reductions and deletions, I approve Assembly Bill No. 3230.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. It is the intent of the Legislature, in enacting tax penalty amnesty programs, as provided by this act, to improve compliance with state tax laws and to accelerate and increase collections of certain currently owed state taxes. The Legislature finds and declares that a public purpose is served by the waiver of tax penalties and criminal prosecution in return for the immediate reporting and payment of previously underreported, nonreported, or certain nonpaid tax liabilities. The benefits gained by this program include, among other things, accelerated receipt of certain currently owed taxes, permanently bringing into the tax system taxpayers who have been evading tax, and providing an opportunity for taxpayers to clear their records and satisfy tax obligations before stepped-up tax enforcement programs take effect in 1985. It is further the intent of the Legislature in enacting this act that the tax penalty amnesty program be a one-time occurrence which shall not be repeated in the future, since taxpayers' expectations of future amnesty programs could have a counterproductive effect on compliance today.

SEC. 2. Section 140 is added to the Business and Professions Code, to read:

140. Any board, as defined in Section 22, which is authorized under this code to take disciplinary action against a person who holds a license may take disciplinary action upon the ground that the licensee has failed to record and preserve for not less than three years, any and all cash transactions involved in the payment of

employee wages by a licensee. Failure to make these records available to an authorized representative of the board may be made grounds for disciplinary action. In any action brought and sustained by the board which involves a violation of this section and any regulation adopted thereto, the board may assess the licensee with the actual investigative costs incurred, not to exceed two thousand five hundred dollars ($2,500). Failure to pay those costs may result in revocation of the license. Any moneys collected pursuant to this section shall be deposited in the respective fund of the board.

SEC. 3. Section 226.6 is added to the Labor Code, to read:

226.6. Any employer who knowingly and intentionally violates the provisions of Section 226 or 226.2, or any officer, agent, employee, fiduciary, or other person who has the control, receipt, custody, or disposal of, or pays, the wages due any employee, and who knowingly and intentionally participates or aids in the violation of any provision of Section 226 or 226.2 is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one thousand dollars ($1,000) or be imprisoned not to exceed one year, or both, at the discretion of the court. That fine or imprisonment, or both, shall be in addition to any other penalty provided by law.

SEC. 5. Section 6094.5 of the Revenue and Taxation Code is amended to read:

6094.5. Except as provided in Sections 6012.8 and 6012.9:

(a) Any person, including any officer or employee of a corporation, who gives a resale certificate for property which he or she knows at the time of purchase is not to be resold by him or her or the corporation in the regular course of business for the purpose of evading payment to the seller of the amount of the tax applicable to the transaction is guilty of a misdemeanor punishable as provided in Section 7153.

(b) Any person, including any officer or employee of a corporation, who gives a resale certificate for property which he or she knows at the time of purchase is not to be resold by him or her or the corporation in the regular course of business is liable to the state for the amount of tax that would be due if he or she had not given such resale certificate. In addition to the tax, the person shall be liable to the state for a penalty of 10 percent of the tax or five hundred dollars ($500) whichever is greater, for each purchase made for personal gain or to evade the payment of taxes.

SEC. 6. Section 6485.1 is added to the Revenue and Taxation Code, to read:

6485.1. Any purchaser of a vehicle, vessel, or aircraft who registers it outside the State of California for the purpose of evading the payment of taxes due under this part shall be liable for a penalty of 50 percent of any tax determined to be due on the sales price of the vehicle, vessel, or aircraft.

SEC. 7. Section 6514.1 is added to the Revenue and Taxation Code, to read:

6514.1. Any purchaser of a vehicle, vessel, or aircraft who

registers it outside the State of California for the purpose of evading the payment of taxes due under this part shall be liable for a penalty of 50 percent of any tax determined to be due on the sales price of the vehicle, vessel, or aircraft.

SEC. 8. Section 6703 of the Revenue and Taxation Code is amended to read:

6703. (a) Subject to the limitations in subdivisions (b) and (c), the board may by notice of levy, served personally or by first-class mail, require all persons having in their possession, or under their control, any credits or other personal property belonging to a retailer or other person liable for any amount under this part to withhold from such credits or other personal property the amount of any tax, interest, or penalties due from such retailer or other person, or the amount of any liability incurred by them under this part, and to transmit the amount withheld to the board at such times as it may designate.

(b) The person served shall continue to withhold pursuant to the Notice of Levy until the amount specified in the notice, including accrued interest, has been paid in full, until the notice is withdrawn, or until one year from the date the notice is received, whichever occurs first.

(c) The amount required to be withheld is the lesser of the following:

(1) The amount due stated on the notice.

(2) The amount of each payment due or becoming due to the retailer or other person liable during the period of the levy.

(d) For the purposes of this section, the term "payments" does not include earnings as that term is defined in subdivision (a) of Section 706.011 of the Code of Civil Procedure or funds in a deposit account as defined in Section 9105 of the Commercial Code. The term "payments" does include any of the following:

(1) Payments due for services of independent contractors, dividends, rents, royalties, residuals, patent rights, mineral or other natural rights.

(2) Payments or credits due or becoming due periodically as a result of an enforceable obligation to the retailer or other person liable for the tax.

(3) Any other payments or credits due or becoming due the retailer or other person liable as the result of written or oral contracts for services or sales whether denominated as wages, salary, commission, bonus, or otherwise.

(e) In the case of a financial institution, to be effective, the notice shall state the amount due from the taxpayer and shall be delivered or mailed to the branch or office of the financial institution where the credits or other property is held, unless another branch or office is designated by the financial institution to receive the notice.

SEC. 9. Section 6830 is added to the Revenue and Taxation Code, to read:

6830. (a) For the purpose of collecting taxes, interest, additions

to tax, and penalties, the board may enter into agreement with one or more private persons, companies, associations, or corporations providing debt collection services outside this state with respect to the collection of taxes, interest, additions to tax, and penalties. That agreement may provide, at the discretion of the board, the rate of payment and the manner in which compensation for services shall be paid. The compensation may be added to the amount required to be collected by the collection agency or provider of debt collection services from the tax debtor. The board shall provide the necessary information for the contractor to fulfill its obligation under that agreement.

(b) With the approval of the board, the contractor may, as part of the collection process, refer the tax debt for litigation by its legal representatives in the name of the board.

SEC. 10. A heading is added immediately preceding Section 7051 of the Revenue and Taxation Code, to read:

Article 1. Administration

SEC. 11. Section 7059 is added to the Revenue and Taxation Code, to read:

7059. The board, under regulations prescribed by the board, may establish a reward program for information resulting in the identification of underreported or unreported taxes due under this part. Any reward may not exceed 10 percent of the taxes collected as a result of the information provided. Any person employed by or under contract with any state or federal tax collection agency shall not be eligible for a reward provided pursuant to this section.

SEC. 12. Article 2 (commencing with Section 7070) is added to Chapter 8 of Part 1 of Division 2 of the Revenue and Taxation Code, to read:

Article 2. Tax Penalty Amnesty

7070. The board shall develop and administer a tax penalty amnesty program as provided in this article.

7071. The tax penalty amnesty program shall be conducted during the period of December 10, 1984, through March 15, 1985. The program shall apply to tax liabilities due and payable for tax reporting periods ending on or before June 30, 1984.

7072. (a) For any taxpayer who meets the requirements of Section 7073:

(1) The board shall waive all penalties imposed by this part, for the tax reporting periods for which tax penalty amnesty is requested, which are owed as a result of the nonreporting or underreporting of tax liabilities.

(2) No criminal action shall be brought against the taxpayer, for the tax reporting periods for which tax penalty amnesty is requested, for the nonreporting or underreporting of tax liabilities.

(3) Paragraphs (1) and (2) shall not apply to the nonpayment of any taxes previously assessed.

(b) This section shall not apply to violations of this part for which, as of December 10, 1984, (1) the taxpayer is on notice of a criminal investigation by a complaint having been filed against him or her or by written notice having been mailed to him or her that he or she is under criminal investigation, or (2) a court proceeding has already been initiated.

(c) No refund or credit shall be granted of any penalty paid prior to the time the taxpayer makes a request for tax penalty amnesty pursuant to Section 7073.

7073. (a) The provisions of this article shall apply to any taxpayer who, on or after December 10, 1984, and before March 15, 1985, files an application for tax penalty amnesty and does both of the following:

(1) Files completed tax returns for all tax reporting periods for which he or she has not previously filed a tax return and files completed amended returns for all tax reporting periods for which he or she underreported his or her tax liability.

(2) Pays in full the taxes and interest due.

(b) The board may enter into an installment payment agreement in lieu of the complete payment required under paragraph (2) of subdivision (a). Any such agreement shall include interest on the outstanding amount due at the rate prescribed in Section 19269. Failure by the taxpayer to fully comply with the terms of the installment payment agreement shall render the waiver of penalties null and void, unless the board determines that the failure was due to reasonable cause, and the total amount of tax, interest, and all penalties shall be immediately due and payable.

(c) If, subsequent to March 15, 1985, the board issues a deficiency assessment upon a return filed pursuant to subdivision (a), the board shall have the authority to impose penalties and criminal action may be brought under this part only with respect to the difference between the amount shown on that return and the correct amount of tax. This action shall not invalidate any waivers granted under Section 7072.

7074. The board shall issue forms and instructions and take other actions needed to implement this article.

7075. The board shall adequately publicize the tax penalty amnesty program so as to maximize public awareness of and participation in the program. The board shall coordinate to the highest degree possible its publicity efforts and other actions taken in implementing this article with similar programs administered by the Franchise Tax Board.

SEC. 13. Section 7151 of the Revenue and Taxation Code is amended to read:

7151. Any retailer or other person who fails or refuses to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the board, is guilty of a misdemeanor punishable as provided in Section 7153.

SEC. 14. Section 7152 of the Revenue and Taxation Code is amended to read:

7152. Any person required to make, render, sign, or verify any report who makes any false or fraudulent return, with intent to defeat or evade the determination of an amount due required by law to be made is guilty of a misdemeanor punishable as provided in Section 7153.

SEC. 15. Section 7153 of the Revenue and Taxation Code is amended to read:

7153. Any violation of this part by any person, except as otherwise provided, is a misdemeanor. Each offense shall be punished by a fine of not less than one thousand dollars ($1,000) and not more than five thousand dollars ($5,000), or imprisonment not exceeding one year in the county jail, or both the fine and imprisonment in the discretion of the court.

SEC. 16. Section 7155 is added to the Revenue and Taxation Code, to read:

7155. (a) Any person who, for the purpose of evading the payment of taxes due under this part, knowingly fails to obtain a valid permit prior to the date on which the first tax return is due shall be liable for a penalty of 50 percent of any tax determined to be due for the period during which the person engaged in business in this state as a seller without a valid permit.

(b) This section shall not apply to any person whose measure of tax liability over the period during which he or she was engaged in business in this state as a seller without a valid permit averaged one thousand dollars ($1,000) or less per month.

(c) This section shall not apply to the amount of taxes due on the sale or use of a vehicle, vessel, or aircraft, if the amount is subject to the penalty imposed by Section 6485.1 or Section 6514.1.

SEC. 17. Section 17299.8 is added to the Revenue and Taxation Code, to read:

17299.8. No deduction shall be allowed under this part to an individual or entity for amounts paid as remuneration for personal services if that individual or entity fails to report the payments required under Section 13050 of the Unemployment Insurance Code or Sections 18802 and 18802.2 on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that the failure is due to reasonable cause.

SEC. 18. Section 17299.9 is added to the Revenue and Taxation Code, to read:

17299.9. (a) Notwithstanding any other provisions in this part, in the case of a taxpayer who owns real property and has either failed to provide information required pursuant to Section 18802.3, or has provided information which is either false, misleading, or incomplete in the information return required pursuant to Section 18802.3, no deduction shall be allowed for interest, taxes, depreciation, or amortization paid or incurred with respect to that real property, as provided in subdivision (b).

(b) No deduction shall be allowed for the items provided in subdivision (a) from 60 days after the due date for filing the information return required pursuant to Section 18802.3 until the date the Franchise Tax Board determines that all provisions of Section 18802.3 have been complied with.

(c) In the event the period of noncompliance does not cover an entire taxable year, the deductions shall be denied at the rate of one-twelfth for each full month during the period of noncompliance.

SEC. 19. Section 18409 is added to the Revenue and Taxation Code, to read:

18409. (a) Any person who is a promoter of tax shelters, as defined in subdivision (c), shall, within 60 days of a request, make a complete return to the Franchise Tax Board containing the full identification of each investment sold during the reporting period. For each investment, all of the following information shall be provided:

(1) Name of investment.

(2) Description of the business activities of the investment.

(3) Form of investment, such as limited partnership, investment plan, or arrangement.

(4) A list of investors showing full name, address, social security number, and the amount invested by each investor in the investment during the reporting period.

(5) The total amount invested by all investors during the reporting period in the investment.

(6) Any other related information which the Franchise Tax Board may request.

The return shall be verified by a written declaration that it is made under penalty of perjury.

(b) Every person making a return under subdivision (a) shall furnish, within 60 days of the request, to each investor whose name is set forth in the return a written statement showing all of the following:

(1) The name and address of the person making the return.

(2) The aggregate amount of investments of each investor as shown on that return for each reporting period.

(c) For purposes of this section, the term "a promoter of tax shelters" shall mean any person who:

(1) (A) Organizes (or assists in the organization of) any entity, any investment plan or arrangement, or any other plan or arrangement which generates a loss for any investor in excess of his or her cash investment from an activity described in Section 465(c) of the Internal Revenue Code, or

(B) Participates in the sale of any interest in any entity or plan or arrangement referred to in subparagraph (A).

(2) Makes or furnishes (in connection with that organization or sale):

(A) A statement with respect to the allowability of any deduction or credit, the excludability of any income, or the securing of any

other tax benefit by reason of holding an interest in the entity or participating in the plan or arrangement.

(B) A statement as to the value of any property or services.

(d) A promoter of tax shelters shall keep records necessary to substantiate the information required to be contained on a return.

(e) "Reporting period," as used in subdivision (a), shall mean each calendar year specified on the request from the Franchise Tax Board.

(f) A return filed by a partnership under this part shall be deemed to have satisfied the reporting requirement of this section for the reporting period covered by the partnership return with respect to the investors in the partnership.

(g) The Franchise Tax Board shall establish a review process for all requests for information under this section comparable to the process of obtaining an administrative subpoena, including the requirement that a member of the Franchise Tax Board shall approve each request.

SEC. 20. Section 18681 of the Revenue and Taxation Code is amended to read:

18681. (a) If any taxpayer fails to make and file a return required by this part on or before the due date of the return or the due date as extended by the Franchise Tax Board, then, unless it is shown that the failure is due to reasonable cause and not due to willful neglect, 5 percent of the tax shall be added to the tax for each month or fraction thereof elapsing between the due date of the return and the date on which filed, but the total penalty shall not exceed 25 percent of the tax. The penalty so added to the tax shall be due and payable upon notice and demand from the Franchise Tax Board.

(b) For purposes of subdivision (a), the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed upon the return.

(c) This section shall not apply to any failure to file a declaration of estimated tax required by Section 18415.

(d) Notwithstanding subdivision (b), in the case of a failure to file a return of tax required by this part within 60 days of the date prescribed for filing of that return (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, the penalty under subdivision (a) shall not be less than the lesser of one hundred dollars ($100) or 100 percent of the amount of tax required to be shown on the return.

SEC. 21. Section 18681.1 of the Revenue and Taxation Code is amended to read:

18681.1. (a) In the case of each failure—

(1) To file a statement of the amount of payments to another person required by—

(A) Section 18802 (relating to information at source),

(B) Section 18802.1 (relating to payments of patronage dividends),

(C) Section 18802.2 (relating to payments of remunerations for services),

(D) Section 18802.8 (relating to reporting requirements of certain fishing boat operators),

(E) Section 18803 (relating to payments of interest and corporate dividends),

(2) To make a return required by—

(A) Section 18802.3 (relating to information reporting requirements for real property owners),

(B) Section 18802.4 (relating to information reporting requirements for brokers and barterers),

(C) Section 18802.5 (relating to reporting payment of wages in the form of group-term life insurance), on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that the failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Franchise Tax Board and in the same manner as the tax), by the person or employer failing to file a statement or a return referred to in subdivision (a), fifty dollars ($50) for each failure, but the total amount imposed on the delinquent person or employer for all failures during any calendar year shall not exceed ten thousand dollars ($10,000).

(b) If one or more failures to which subdivision (a) applies are due to intentional disregard of the filing requirement, then with respect to those failures—

(1) The penalty imposed under subdivision (a) shall not be less than an amount equal to 10 percent of the aggregate amount of the items required to be reported,

(2) The ten thousand dollar ($10,000) limitation under subdivision (a) shall not apply.

The amendments to this section made by the 1981–82 Regular Session of the Legislature shall apply to returns or statements required to be furnished after December 31, 1981.

SEC. 21.5. Section 18681.1 of the Revenue and Taxation Code is amended to read:

18681.1. (a) In the case of each failure—

(1) To file a statement of the amount of payments to another person required by—

(A) Section 18802 (relating to information at source),

(B) Section 18802.1 (relating to payments of patronage dividends),

(C) Section 18802.2 (relating to payments of remunerations for services),

(D) Section 18802.8 (relating to reporting requirements of certain fishing boat operators),

(E) Section 18803 (relating to payments of interest and corporate dividends),

(2) To make a return required by—

(A) Section 18802.3 (relating to information reporting requirements for real property owners),

(B) Section 18802.4 (relating to information reporting requirements for brokers and barterers),

(C) Section 18802.5 (relating to reporting payment of wages in the form of group-term life insurance), on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that the failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Franchise Tax Board and in the same manner as the tax), by the person or employer failing to file a statement or a return referred to in subdivision (a), fifty dollars ($50) for each failure, but the total amount imposed on the delinquent person or employer for all failures during any calendar year shall not exceed ten thousand dollars ($10,000).

(b) If one or more failures to which subdivision (a) applies are due to intentional disregard of the filing requirement, then with respect to those failures—

(1) The penalty imposed under subdivision (a) shall not be less than an amount equal to 10 percent of the aggregate amount of the items required to be reported,

(2) The ten thousand dollar ($10,000) limitation under subdivision (a) shall not apply.

The amendments to this section made by the 1981–82 Regular Session of the Legislature shall apply to returns or statements required to be furnished after December 31, 1981.

SEC. 22. Section 18681.3 is added to the Revenue and Taxation Code, to read:

18681.3. (a) In addition to the penalty imposed by Section 19401 (relating to willful failure to file a return or supply information), if any person required to file a return under Section 18409 for any calendar year does any of the following: (1) fails to file a return within 60 days of a request, (2) files a return which fails to show the information required under Section 18409, or (3) fails to furnish the required statement to each investor, that person shall be liable for a penalty determined under subdivision (b), unless it is shown that such a failure is due to reasonable cause.

(b) For purposes of subdivision (a), the amount determined under this subdivision is the product of one thousand dollars ($1,000), multiplied by the number of investors required to be shown on the return. If the number of investors cannot be determined by the Franchise Tax Board, the amount determined under this subdivision shall be one hundred thousand dollars ($100,000).

(c) The penalty imposed by subdivision (a) shall be assessed against that person required to file a return under Section 18409.

(d) Article 2 (commencing with Section 18581) of Chapter 18 of this part (relating to deficiency assessments) shall not apply with respect to the assessment or collection of any penalty imposed by

subdivision (a).

SEC. 23. Section 18681.4 is added to the Revenue and Taxation Code, to read:

18681.4. (a) Any person who has a duty to file returns under Section 18409 and fails to keep the records required by subdivision (d) of Section 18409 shall pay a penalty for each calendar year for which there is any failure to keep those records, unless it is shown that such failure is due to reasonable cause.

(b) The penalty for any person for any calendar year shall be one thousand dollars ($1,000), multiplied by the number of investors with respect to whom that failure occurs in the calendar year reporting period. If the number of investors cannot be determined by the Franchise Tax Board, the amount determined under this subdivision for any calendar year reporting period shall be one hundred thousand dollars ($100,000).

(c) The penalty under this section shall be assessed against the person required to file a return under Section 18409.

(d) Article 2 (commencing with Section 18581) of Chapter 18 of this part (relating to deficiency assessments) shall not apply with respect to the assessment or collection of any penalty imposed by subdivision (a).

SEC. 24. Section 18681.6 is added to the Revenue and Taxation Code, to read:

18681.6. (a) In addition to the penalty imposed by Section 18681.1 (relating to willful failure to file information returns), if any person, or entity fails to report amounts paid as remuneration for personal services as required under Section 13050 of the Unemployment Insurance Code or Section 18802 and 18802.2 on the date prescribed therefor (determined with regard to any extension of time for filing), that person or entity shall be liable for a penalty determined under subdivision (b), unless it is shown that such a failure is due to reasonable cause.

(b) For purposes of subdivision (a), the amount determined under this subdivision is 11 percent of the unreported amounts paid as remuneration for personal services.

(c) The penalty imposed by subdivision (a) shall be assessed against that person or entity required to file a return under Section 13050 of the Unemployment Insurance Code or Section 18802 or 18802.2.

(d) Article 2 (commencing with Section 18581) of Chapter 18 of this part (relating to deficiency assessments) shall not apply with respect to the assessment of collection of any penalty imposed by subdivision (a).

SEC. 25. Section 18802.3 is added to the Revenue and Taxation Code, to read:

18802.3. (a) All owners and transferors of an interest in real property or a mobilehome shall file a return upon written request by the Franchise Tax Board which includes their social security number (or the federal employer identification number, if not an individual),

identification of the property interest, and any other pertinent information about the interest prescribed by regulation.

(b) Subdivision (a) shall not apply to any of the following:

(1) Property granted a homeowner's property tax exemption.

(2) Property which is not assessed by a California county assessor.

(c) Owners and transferors failing to file a return required by subdivision (a) on or before the due date of the return shall be subject to the penalty provided by Section 18681.1, unless the failure is due to reasonable cause and not due to willful neglect.

(d) Owners failing to file a return required by subdivision (a) within 60 days of the due date of the return shall be subject to the sanctions provided by Section 17299.9 disallowing certain expenses related to the property for which a return is required, unless it is shown that the failure is due to reasonable cause and not due to willful neglect.

(e) The Franchise Tax Board shall mail to each owner and transferor required to file a return pursuant to subdivision (a) a notice at least 60 days prior to the due date of the return. The notice shall be in a form and shall include any information which the Franchise Tax Board prescribes and shall advise owners and transferors of all of the following:

(1) The requirement to provide the Franchise Tax Board their social security number (or federal employer identification number, if other than an individual).

(2) When the statement is due.

(3) A general description of the tax consequences of not providing the requested information.

(f) The social security number and federal employer identification number furnished pursuant to this section shall be used exclusively for tax administration purposes. It is the intent of the Legislature in enacting this section to utilize the social security number or federal employer identification number for the sole purpose of establishing the identification of individuals or entities affected by state tax laws.

SEC. 26. Section 18802.4 is added to the Revenue and Taxation Code, to read:

18802.4. (a) Every person doing business as a broker shall, when required by the Franchise Tax Board, make a return, in accordance with regulations as the Franchise Tax Board may prescribe, showing the name and address of each customer, with such details regarding gross proceeds and any other information which the Franchise Tax Board may by forms or regulations require with respect to that business.

(b) (1) Every person making a return under subdivision (a) shall furnish to each customer whose name is set forth in that return a written statement showing all of the following:

(A) The name and address of the person making that return.

(B) The information shown on that return with respect to that customer.

(2) The written statement required under paragraph (1) shall be furnished to the customer on or before January 31 of the year following the calendar year for which the return under subdivision (a) was made.

(c) For purposes of this section:

(1) The term "broker" includes any of the following:

(A) A dealer.

(B) A barter exchange.

(C) Any other person, who, for a consideration, regularly acts as a middleman with respect to personal property or services.

(2) The term "customer" means any person for whom the broker has transacted any business.

(3) The term "barter exchange" means any organization of members providing personal property or services who jointly contract to trade or barter that personal property or services.

(d) In lieu of the return required by this section, a copy of the similar return filed with the Internal Revenue Service pursuant to Section 6045 of the Internal Revenue Code, and the regulations adopted thereto, may be filed with the Franchise Tax Board.

SEC. 27. Section 18817.5 is added to the Revenue and Taxation Code, to read:

18817.5. (a) Subject to the limitations in subdivisions (b) and (c), the Franchise Tax Board, may, by notice, served personally or by first-class mail, require any person, officer, or department of the state, including the Regents of the University of California, a city organized under a freeholder's charter, or a political body not a subdivision or agency of the state, to withhold the amount of any tax, interest, or penalties due from a taxpayer, or the amount due from an employer or person who has failed to withhold and transmit amounts due pursuant to Section 18815 or Section 18818, from any payments due the taxpayer, employer, or person and from any payments becoming due the taxpayer, employer, or person after receipt of the notice. The amounts withheld shall be transmitted to the Franchise Tax Board at those times as it may designate.

(b) The effect of a levy made pursuant to subdivision (a) shall be continuous from the date the notice is received until the amount due stated on the notice has been withheld, until the notice has been withdrawn, or until one year after the date the notice is received, whichever occurs first.

(c) The amount required to be withheld pursuant to a notice issued under subdivision (a) is the lesser of the amount due stated on the notice, or either of the following:

(1) If the taxpayer, employer, or person is not a natural person, 100 percent of the amount of each payment due or becoming due the taxpayer, employer, or person during the period the levy is in effect as provided in subdivision (b).

(2) If the taxpayer, employer, or person is a natural person, 25 percent of the amount of each payment due or becoming due the taxpayer, employer, or person during the period the levy is in effect

as provided in subdivision (b).

(d) For purposes of this section, the term "payments" does not include earnings as defined in subdivision (a) of Section 706.011 of the Code of Civil Procedure or funds in a deposit account as defined in Section 9105 of the Commercial Code. The term "payments" does include any of the following:

(1) Payments due for services of independent contractors, dividends, rents, royalties, residuals, patent rights, mineral, or other natural resource rights.

(2) Payments or credits due or becoming due as a result of written or oral contracts for services or sales whether denominated as wages, salary, commission, bonus, or otherwise.

(3) Any other payments or credits due or becoming due periodically as a result of an enforceable obligation to the taxpayer, employer, or person.

SEC. 28. Section 18818 of the Revenue and Taxation Code is amended to read:

18818. Any employer or person failing to withhold the amount due from any taxpayer and to transmit the same to the Franchise Tax Board after service of a notice pursuant to Section 18817 or Section 18817.5 is liable for such amounts.

SEC. 29. Section 18837 is added to the Revenue and Taxation Code, to read:

18837. (a) For the purpose of collecting taxes, interest, additions to tax, and penalties, the Franchise Tax Board may enter into agreement with one or more private persons, companies, associations, or corporations providing debt collection services outside this state with respect to the collection of taxes, interest, additions to tax, and penalties. That agreement may provide, at the discretion of the Franchise Tax Board, the rate of payment and the manner in which compensation for services shall be paid. The compensation may be added to the amount of the tax, interest, additions to tax, and penalties, and collected as a part thereof, by the contractor from the tax debtor. The Franchise Tax Board shall provide the necessary information for the contractor to fulfill its obligation under this agreement.

(b) At the discretion of the Franchise Tax Board, the contractor may, as part of the collection process, refer the tax debt for litigation by its legal representatives in the name of the Franchise Tax Board.

SEC. 30. Section 18907 of the Revenue and Taxation Code is amended to read:

18907. The warrant shall be directed to any sheriff, constable, marshal, or the California State Police and shall have the same force and effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same force and effect as a levy of and sale pursuant to a writ of execution.

SEC. 31. Section 18908 of the Revenue and Taxation Code is amended to read:

18908. The Franchise Tax Board shall pay or advance to the

sheriff, constable, marshal, or the California State Police the same fees, commissions, and expenses as are provided by law for similar services pursuant to a writ of execution. The Franchise Tax Board, and not the court, shall approve the fees for publication in a newspaper.

SEC. 32. Section 19272 is added to the Revenue and Taxation Code, to read:

19272. (a) The Franchise Tax Board shall prescribe regulations providing standards for determining which returns shall be filed on magnetic media or in other machine-readable form. The Franchise Tax Board shall not require returns of any tax imposed by this part on individuals, estates, and trusts to be other than on paper forms supplied by the Franchise Tax Board. In prescribing those regulations, the Franchise Tax Board shall take into account, among other relevant factors, the ability of the taxpayer to comply at a reasonable cost with that filing requirement.

(b) Subdivision (a) is applicable only to taxpayers required to file returns on magnetic media or in other machine-readable form pursuant to Section 6011(e) of the Internal Revenue Code and the regulations adopted thereto. In addition, the regulations under subdivision (a) shall not require that returns filed on magnetic media or in other machine-readable form contain more information than is required to be included in similar returns filed with the Internal Revenue Service under Section 6011(e) of the United States Internal Revenue Code and the regulations adopted thereto.

(c) In lieu of the magnetic media or other machine-readable form returns required by this section, a copy of the similar magnetic media or other machine-readable form returns filed with the Internal Revenue Service pursuant to Section 6011(e) of the Internal Revenue Code, and the regulations adopted thereto, may be filed with the Franchise Tax Board.

SEC. 33. Section 19273 is added to the Revenue and Taxation Code, to read:

19273. The Franchise Tax Board, under regulations prescribed by the Franchise Tax Board, may establish a reward program for information resulting in the identification of underreported or unreported income subject to taxes imposed by this part. Any reward may not exceed 10 percent of the taxes collected as a result of the information provided. Any person employed by or under contract with any state or federal tax collection agency shall not be eligible for a reward provided for pursuant to this section.

SEC. 33.5. Section 19274 is added to the Revenue and Taxation Code, to read:

19274. The Franchise Tax Board shall develop and maintain a taxpayer cross-reference file which shall be used as a part of a nonwage earner filing enforcement program. The taxpayer cross-reference file may include information from taxpayer identification information available from tax returns, application forms, other documents, and any other files as already exist and are

maintained by the state's major revenue agencies. The taxpayer cross-reference file shall only be used for the purposes of tax law enforcement and administration.

SEC. 34. Section 19286.8 is added to the Revenue and Taxation Code, to read:

19286.8. (a) Notwithstanding any other provision of law, each city which maintains a computerized recordkeeping system or has access to a computerized recordkeeping or information system and which assesses a business tax shall annually furnish to the Franchise Tax Board the information specified in subdivision (b) for all businesses subject to the tax in the preceding fiscal year.

(b) The information required shall include all of the following:

(1) Business name.

(2) Business address.

(3) Federal employer identification number (if the business is a partnership or corporation, or owner's name and social security number (for all others).

(4) Type of business activity.

(5) Amount of annual business tax.

(6) Any other information which the Franchise Tax Board may prescribe by regulation.

(c) The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards prescribed by regulation by the Franchise Tax Board.

(d) Cities shall begin providing to the Franchise Tax Board the information required by this section as soon as economically feasible, but no later than December 31, 1990. The information shall be furnished annually at a time and in the form which the Franchise Tax Board may prescribe by regulation.

(e) (1) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, the information furnished pursuant to this section shall not be deemed to be public records and shall not be open to the public for inspection.

(2) Any deputy, agent, clerk, officer, or employee of any entity described in subdivision (a), or any former officer or employee or other individual who in the course of his or her employment or duty has or had access to the information required to be furnished under this section, shall not disclose or make known in any manner that information, except to the Franchise Tax Board.

(f) It is the intent of the Legislature in enacting this section to utilize the social security account numbers or federal employer identification numbers for the sole purposes of establishing the identification of individuals affected by state tax laws and, to that end, the information furnished pursuant to this section shall be used exclusively for state tax enforcement purposes.

SEC. 35. Article 3 (commencing with Section 19300) is added to Chapter 21 of Part 10 of Division 2 of the Revenue and Taxation Code, to read:

Article 3. Tax Penalty Amnesty

19300. The Franchise Tax Board shall develop and administer a tax penalty amnesty program as provided in this article.

19301. The tax penalty amnesty program shall be conducted during the period of December 10, 1984, through March 15, 1985. The program shall apply to tax liabilities for tax years ending on or before December 31, 1983.

19302. (a) For any taxpayer who meets the requirements of Section 19303:

(1) The Franchise Tax Board shall waive all penalties imposed by this part, for the taxable years for which tax penalty amnesty is requested, which are owed as a result of the nonreporting or underreporting of tax liabilities or the nonpayment of any taxes previously assessed.

(2) No criminal action shall be brought against the taxpayer, for the taxable years for which tax penalty amnesty is requested, for nonreporting or underreporting of tax liabilities or the nonpayment of any taxes previously assessed.

(b) This section shall not apply to violations of this part for which, as of December 10, 1984, (1) the taxpayer is on notice of a criminal investigation by a complaint having been filed against him or her or by a written notice having been mailed to him or her that he or she is under criminal investigation, or (2) for which a court proceeding has already been initiated.

(c) No refund or credit shall be granted of any penalty paid prior to the time the taxpayer makes a request for tax penalty amnesty pursuant to Section 19303.

19303. (a) The provisions of this article shall apply to any taxpayer who, on or after December 10, 1984, and before March 15, 1985, files an application for tax penalty amnesty and does both of the following:

(1) Files completed tax returns for all years for which he or she has not previously filed a tax return and files completed amended returns for all years for which he or she underreported his or her income.

(2) Pays in full the taxes and interest due.

(b) The Franchise Tax Board may enter into an installment payment agreement in lieu of the complete payment required under paragraph (2) of subdivision (a). Any such agreement shall include interest on the outstanding amount due at the rate prescribed in Section 18686.

Failure by the taxpayer to fully comply with the terms of the installment payment agreement shall render the waiver of penalties null and void, unless the Franchise Tax Board determines that the failure was due to reasonable cause, and the total amount of tax, interest, and all penalties shall be immediately due and payable.

(c) If, subsequent to March 15, 1985, the Franchise Tax Board issues a deficiency assessment upon a return filed pursuant to

subdivision (a), the Franchise Tax Board shall have the authority to impose penalties and criminal action may be brought under this part only with respect to the difference between the amount shown on that return and the correct amount of tax. This action shall not invalidate any waiver granted under Section 19302.

19304. Notwithstanding any other provision of this part, if any overpayment of tax under this article is refunded or credited within 180 days after the return is filed, no interest shall be allowed under Section 19062 on that overpayment.

19305. The Franchise Tax Board shall issue forms and instructions and take other actions needed to implement this article.

19306. The Franchise Tax Board shall adequately publicize the tax penalty amnesty program so as to maximize public awareness of and participation in the program. The Franchise Tax Board shall coordinate to the highest degree possible its publicity efforts and other actions taken in implementing this article with similar programs administered by the State Board of Equalization.

SEC. 36. Section 19401 of the Revenue and Taxation Code is amended to read:

19401. Any person who does any of the following is liable for a penalty of not more than five thousand dollars ($5,000):

(a) With or without intent to evade any requirement of this part or any lawful requirement of the Franchise Tax Board under this part, fails to file any return or to supply any information required under this part, or who, with or without such intent, makes, renders, signs, or verifies any false or fraudulent return or statement, or supplies any false or fraudulent information.

(b) Aids, abets, advises, encourages, or counsels any individual to evade the tax imposed by this part by not filing any return or supplying any information required under this part, or, by making, rendering, signing, or verifying any false or fraudulent return or statement, or by supplying false or fraudulent information.

(c) Under this part, is required to pay any estimated tax or tax, who willfully fails to pay that estimated tax or tax, at the time or times required by law or regulations.

The penalty shall be recovered in the name of the people in any court of competent jurisdiction. Counsel for the Franchise Tax Board may, upon request of the district attorney or other prosecuting attorney, assist the prosecuting attorney in presenting the law or facts to recover the penalty at the trial of a criminal proceeding for violation of this section.

The person is also guilty of a misdemeanor and shall upon conviction be fined not to exceed five thousand dollars ($5,000) or be imprisoned not to exceed one year, or both, at the discretion of the court, together with costs of investigation and prosecution.

SEC. 36.3. Section 19411 is added to the Revenue and Taxation Code, to read:

19411. Any individual required to supply information to his or her employer under Section 13040, 13041, or 13042 of the Unemployment

Insurance Code, who willfully supplies false or fraudulent information, or who willfully fails to supply information thereunder which would require an increase in the tax to be withheld under Section 13020 of the Unemployment Insurance Code, shall, in lieu of any penalty otherwise provided (except the penalty provided by Section 19411.1), upon conviction thereof, be fined not more than one thousand dollars ($1,000), or imprisoned not more than one year, or both.

SEC. 36.5. Section 19411.1 is added to the Revenue and Taxation Code, to read:

19411.1. (a) In addition to any criminal penalty provided by law if:

(1) Any individual makes a statement under Section 13040, 13041, or 13042 of the Unemployment Insurance Code which results in a decrease in the amounts deducted and withheld under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code.

(2) As of the time the statement was made, there was no reasonable basis for the statement, the individual shall pay a penalty of five hundred dollars ($500) for the statement. Any penalty so imposed shall be paid upon notice and demand from the Franchise Tax Board and shall be collected as a tax.

(b) The Franchise Tax Board may waive (in whole or in part) the penalty imposed under subdivision (a) if the taxes imposed under this part with respect to the individual for the taxable year are equal to or less than the sum of both of the following:

(1) The credits against those taxes allowed by Sections 17052.2 through 17053.7 and Section 18551.1.

(2) The payments of estimated tax which are considered payments on account of those taxes.

(c) This section supersedes Section 13101 of the Unemployment Insurance Code and shall apply to acts and failures to act after December 31, 1981.

SEC. 37. Section 24447 is added to the Revenue and Taxation Code, to read:

24447. No deduction shall be allowed to a corporation under this part for amounts paid as remuneration for personal services if that corporation fails to report the payments required under Section 13050 of the Unemployment Insurance Code or Section 18802 and 18202.2 on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause.

SEC. 38. Section 24448 is added to the Revenue and Taxation Code, to read:

24448. (a) Notwithstanding any other provisions in this part, in the case of a taxpayer who owns real property and has either failed to provide the information required pursuant to Section 18802.3 or has provided information which is either false, misleading, or incomplete in the information return required pursuant to Section

18802.3, no deduction for interest, taxes, depreciation, or amortization under Section 24343, 24344, 24345, 24349, or 24354.2 shall be allowed which relate to that real property, as provided in subdivision (b).

(b) No deduction shall be allowed for the items provided in subdivision (a) from 60 days after the due date for filing the information return required pursuant to Section 18802.3 until the date the Franchise Tax Board determines that all provisions of Section 18802.3 have been complied with.

(c) In the event the period of noncompliance does not cover an entire income year, the deductions shall be denied at the rate of one-twelfth for each full month during the period of noncompliance.

SEC. 39. Section 25961.5 is added to the Revenue and Taxation Code, to read:

25961.5. Any individual or corporation or any officer or employee of any corporation who does any of the following is liable for a penalty of not more than five thousand dollars ($5,000):

(a) With or without intent to evade any requirement of this part or any lawful requirement of the Franchise Tax Board under this part, fails to file any return or to supply information required under this part, or who willfully makes, renders, signs, or verifies any false or fraudulent return or statement, or supplies any false or fraudulent information.

(b) Aids, abets, advises, encourages, or counsels any other individual or corporation or any officer or employee of any corporation to evade the tax imposed by this part by not filing any return or supplying any information required under this part, or, by making, rendering, signing, or verifying any false or fraudulent return or statement, or by supplying false or fraudulent information.

(c) Under this part, is required to pay any estimated tax or tax, who willfully fails to pay that estimated tax or tax, at the time or times required by law or regulations.

The penalty shall be recovered in the name of the people in any court of competent jurisdiction. Counsel for the Franchise Tax Board may, upon request of the district attorney or other prosecuting attorney, assist the prosecuting attorney in presenting the law or facts to recover the penalty at the trial of a criminal proceeding for violation of this section.

That individual or corporation or officer or employee of the corporation shall also be guilty of a misdemeanor and shall upon conviction be fined not more than five thousand dollars ($5,000) or be imprisoned not to exceed one year, or both, at the discretion of the court, together with costs of investigation and prosecution.

For the purposes of subdivision (a), the president of the corporation or the chief operating officer is the individual presumed to be responsible for filing any return or supplying any information required under this part.

SEC. 40. Section 26132.5 is added to the Revenue and Taxation Code, to read:

26132.5. (a) Subject to the limitations in subdivisions (b) and (c), the Franchise Tax Board may by notice, served personally or by first-class mail, require any bank, corporation, or person, and any officer or department of the state or any political subdivision or agency of the state, or any city organized under a freeholders' charter, or any political body not a subdivision or agency of the state, to withhold the amount of any tax, interest, or penalties due from a taxpayer or the amount of any liability incurred by a bank, corporation, or person for failure to withhold and transmit amounts due from a taxpayer under this part, from any payments due the taxpayer, bank, corporation, or person and from any payments becoming due the taxpayer, bank, corporation, or person after receipt of the notice. The amounts withheld shall be transmitted to the Franchise Tax Board at such times as it may designate. Any bank, corporation, or person failing to withhold the amount due from any taxpayer and to transmit them to the Franchise Tax Board after receipt of notice pursuant to this section is liable for those amounts.

(b) The effect of the levy made pursuant to subdivision (a) shall be continuous from the date the notice is received until the amount due stated on the notice has been withheld, until the notice has been withdrawn, or until one year after the date the notice is received, whichever occurs first.

(c) The amount required to be withheld pursuant to a notice issued under subdivision (a) is the lesser of the amount due stated on the notice or either of the following:

(1) If the taxpayer or person is not a natural person, 100 percent of the amount of each payment due or becoming due the taxpayer, bank, corporation, or person during the period the levy is in effect as provided in subdivision (b).

(2) If the taxpayer or person is a natural person, 25 percent of the amount of each payment due or becoming due the taxpayer or person during the period the levy is in effect as provided in subdivision (b).

(d) For purposes of this section, the term "payments" does not include earnings as defined in subdivision (a) of Section 706.011 of the Code of Civil Procedure or funds in a deposit account as defined in Section 9105 of the Commercial Code. The term "payments" does include any of the following:

(1) Payments due for services of independent contractors, dividends, rents, royalties, residuals, patent rights, mineral, or other natural resource rights.

(2) Payments or credits due or becoming due as a result of written or oral contracts for services or sales whether denominated as wages, salary, commission, bonus, or otherwise.

(3) Any other payments or credits due or becoming due periodically as a result of an enforceable obligation to the taxpayer, bank, corporation, or person.

SEC. 41. Section 26191 of the Revenue and Taxation Code is amended to read:

26191. A warrant may be issued by the Franchise Tax Board for the collection of any tax, interest or penalty and for the enforcement of any lien, directed to any sheriff, constable, marshal, or California State Police. The warrant shall have the same force and effect as a writ of execution. It may and shall be levied and sale made pursuant to it in the same manner and with the same force and effect as a levy of the sale pursuant to a writ of execution. The Franchise Tax Board shall pay or advance to the sheriff, constable, marshal, or California State Police, the same fees, commissions and expenses in connection with services pursuant to said warrant as are provided by law for similar services pursuant to a writ of execution; provided, that fees for publication in a newspaper shall be subject to approval by the Franchise Tax Board rather than by the court. Such fees, commissions and expenses shall be an obligation of the taxpayer and may be collected from the taxpayer by virtue of the warrant or in any other manner provided in this part for the collection of a tax.

SEC. 42. Section 26254 is added to the Revenue and Taxation Code, to read:

26254. (a) For the purpose of collecting taxes, interest, additions to tax, and penalties, the Franchise Tax Board may enter into agreement with one or more private persons, companies, associations, or corporations providing debt collection services outside this state with respect to the collection of taxes, interest, additions to tax, and penalties. The agreement may provide, at the discretion of the Franchise Tax Board, the rate of payment and the manner in which compensation for services shall be paid. The compensation may be added to the amount of the tax, interest, additions to tax, and penalties, and collected as a part thereof, by the contractor from the tax debtor. The Franchise Tax Board shall provide the necessary information for the contractor to fulfill its obligation under that agreement.

(b) At the discretion of the Franchise Tax Board, the contractor may, as part of the collection process, refer the tax debt for litigation by its legal representatives in the name of the Franchise Tax Board.

SEC. 43. Section 26426 is added to the Revenue and Taxation Code, to read:

26426. (a) The Franchise Tax Board shall prescribe regulations providing standards for determining which returns shall be filed on magnetic media or in other machine-readable form. The Franchise Tax Board shall not require returns of any tax imposed by this part on individuals, estates, and trusts to be other than on paper forms supplied by the Franchise Tax Board. In prescribing those regulations, the Franchise Tax Board shall take into account, among other relevant factors, the ability of the taxpayer to comply at a reasonable cost with that filing requirement.

(b) Subdivision (a) is applicable only to taxpayers required to file returns on magnetic media or in other machine-readable form pursuant to Section 6011(e) of the Internal Revenue Code and the regulations adopted thereto. In addition, the regulations under

subdivision (a) shall not require that returns filed on magentic media or in other machine-readable form contain more information than is required to be included in similar returns filed with the Internal Revenue Service under Section 6011 (e) of the United States Internal Revenue Code and the regulations adopted thereto.

(c) In lieu of the magnetic media or other machine-readable form returns required by this section, a copy of the similar magnetic media or other machine-readable form returns filed with the Internal Revenue Service pursuant to Section 6011(e) of the Internal Revenue Code, and the regulations adopted thereto, may be filed with the Franchise Tax Board.

SEC. 44. Section 26427 is added to the Revenue and Taxation Code, to read:

26427. The Franchise Tax Board, under regulations prescribed by the Franchise Tax Board, may establish a reward program for information resulting in the identification of underreported or unreported income subject to taxes imposed by this part. Any reward may not exceed 10 percent of the taxes collected as a result of the information provided.

SEC. 45. Regulations adopted to implement this act shall be adopted as emergency regulations. These emergency regulations shall not be subject to the review and approval of the Office of Administrative Law pursuant to the provisions of the Administrative Procedure Act provided for in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. These emergency regulations shall become effective immediately upon filing with the Secretary of State.

SEC. 46. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 47. There is hereby appropriated from the General Fund for the 1984–85 fiscal year the sum of two million eight hundred eighty-five thousand dollars ($2,885,000) as follows:

(a) To the Franchise Tax Board for administration of the tax penalty amnesty program provided in Article 3 (commencing with Section 19300) of Chapter 21 of Part 10 of Division 2 of the Revenue and Taxation Code	2,074,000
(b) To the State Board of Equaliza-	

tion for administration of the tax penalty amnesty program provided in Article 2 (commencing with Section 7070) of Chapter 8 of Part 1 of Division 2 of the Revenue and Taxation Code..... 811,000

SEC. 47.5. There is hereby appropriated from the General Fund the sum of eight million nine hundred seventy-one thousand twenty-two dollars ($8,971,022) as follows:

(a) For the 1984–85 fiscal year as follows:

(1) To the Franchise Tax Board..... 2,160,500

Schedule:

(A) For personnel and operating expenses and equipment to conduct audits..... 1,341,000

(B) For personnel and operating expenses and equipment to carry out collections activities 362,500

(C) For costs of developing and maintaining a taxpayer cross-reference file 333,000

(D) For other costs of implementing this act..... 124,000

(2) To the State Board of Equalization 747,237

Schedule:

(A) For field enforcement personnel and operating expenses and equipment to increase registration and collection efforts.. 464,385

(B) For audit person-

nel and operating expenses and equipment for investigations in misuse of resale and exemption certificates 282,852

(b) For the 1985–86 fiscal year as follows:

(1) To the Franchise Tax Board 3,697,000

Schedule:

(A) For personnel and operating expenses and equipment to conduct audits 2,682,000

(B) For personnel and operating expenses and equipment to carry out collections activities 725,000

(C) For costs of developing and maintaining a taxpayer cross-reference file 105,000

(D) For other costs of implementing this act..... 185,000

(2) To the State Board of Equalization 2,366,285

Schedule:

(A) For field enforcement personnel and operating expenses and equipment to increase registration and collection efforts.. 1,432,495

(B) For audit personnel and operating expenses and equipment for investigations in misuse of resale and exemption certificates 848,790

(C) For other costs of

implementing this
act..... 85,000

SEC. 47.7. Section 21.5 of this bill incorporates amendments to Section 18681.1 of the Revenue and Taxation Code proposed by both this bill and AB 2317. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 18681.1 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 2317, in which case Section 18681.1 of the Revenue and Taxation Code, as amended by AB 2317, shall remain operative only until the operative date of this bill, at which time Section 21.5 of this bill shall become operative, and Section 21 of this bill shall not become operative.

SEC. 48. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are revenues as well as costs in this act which, in the aggregate, do not result in additional net costs.

SEC. 48.5. For the purposes of transferring the enforcement program dealing with false wage withholding exemption certificates from the Employment Development Department to the Franchise Tax Board, there is hereby transferred from Item 5100-001-001 of the Budget Act of 1984 (Ch. 258, Stats. 1984) (relating to support of the Employment Development Department) the sum of seven hundred eighty-six thousand dollars ($786,000) (including 30 personnel years) to Item 1730-001-001 of that act (relating to support of the Franchise Tax Board).

SEC. 49. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement effectively programs to improve compliance with state tax laws, it is necessary that this act take effect immediately.

CHAPTER 1491

An act to add and repeal Title 6.7 (commencing with Section 13970) of the Penal Code, relating to crimes, and making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1984. Filed with Secretary of State September 27, 1984.]

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

SECTION 1. Title 6.7 (commencing with Section 13970) is added to the Penal Code, to read:

TITLE 6.7. HIGH-TECHNOLOGY CRIME PREVENTION

13970. The Legislature makes the following findings and declarations:

(a) There exists a serious crime problem affecting high-technology industries throughout California.

(b) These crimes are unique, highly specialized, and constantly changing with the state of the art, presenting a demand for high level expertise for the investigation and prosecution of these cases.

(c) There is currently no program funded specifically for the prevention, investigation, and prosecution of high-technology crimes.

(d) Neither industry nor local governmental jurisdictions have acquired and practiced to the fullest extent possible crime prevention techniques that would mitigate or prevent these crimes.

13971. There shall be a two-year pilot project, operative only in Santa Clara County, which shall be known as the District Attorney's Technology Theft Association project.

13972. The project shall be under the jurisdiction and supervision of the Office of Criminal Justice Planning. The office shall establish an advisory board to provide coordination and cooperation between law enforcement, prosecutors, and private industry. The members of the advisory board shall be appointed by the executive director of the office. The board shall consist of nine members, as follows: a representative of the Santa Clara County District Attorney's office; a representative of the Santa Clara County Sheriff's office; a representative of the California Department of Justice; three police chiefs from cities within Santa Clara County, including the chief of the largest city, one police chief from a city over the median population of cities in the county, and one police chief from a city below the median population of cities in the county; and three members selected from private high-technology industry.

13973. (a) The goal of this project is to reduce high-technology theft in California. As used in this title, "high-technology theft" includes, but is not limited to, any violation of Section 459, 484, 485, 496, 499c, 502, or 537e arising out of the development or application of any technology requiring the most sophisticated scientific equipment and advanced engineering techniques such as microelectronics, data processing, genetic engineering, or telecommunication.

(b) The pilot project shall have the following objectives:

(1) To increase awareness, and commitment of time spent, by participating agency personnel in the area of high-technology theft investigation.

(2) To create a central intelligence clearinghouse for information on high-technology crimes.

(3) To train unit participants in the area of high-technology theft investigation.

(4) To increase and enhance the communication links between police investigators, the district attorney's office, industrial security managers, and federal and state law enforcement agencies.

(5) To establish an organizational base that will provide the nucleus for the development of a regional high-technology theft prevention effort.

(6) To conduct a statewide study relative to a needs assessment for the development of a high-technology theft prevention effort in other California counties. The study shall be conducted jointly by the Office of Criminal Justice Planning and the Department of Justice.

(7) To effectively prosecute high-technology cases in Santa Clara County and to assist in the creation of an effective prosecutorial foundation in those California counties targeted for this project.

13974. The project shall accomplish the following:

(a) Develop and produce a high technology theft investigation training program.

(b) Involve city, county, state, federal, and industrial personnel in training, work sessions, and exchange of information.

(c) Establish ongoing training, education, and informational forums.

(d) Establish a centralized computer information system relating to high-technology crime.

(e) Conduct training sessions with deputy district attorneys from other counties.

13975. The Office of Criminal Justice Planning shall submit an annual report to the Legislature regarding accomplishments of the program. The report shall include a program evaluation, financial statement and comments of the advisory board. A statewide analysis and needs assessment shall be part of the report. This report shall be submitted on or before March 1, 1987.

13976. This title shall become inoperative on March 1, 1987, and, as of January 1, 1988, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1988, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. The sum of two hundred thirty-eight thousand two hundred sixteen dollars ($238,216) is hereby appropriated from the General Fund to the Office of Criminal Justice Planning for expenditure without regard to fiscal years for the purposes of this act; provided that the office shall not allocate any portion of those funds unless the high-technology industry or any source, other than the State of California, has filed with the office a plan to match expenditures to the extent of one hundred nineteen thousand one hundred eight dollars ($119,108). This match may be made in personnel hours, computer time and equipment, use of facilities, or other specialized talent or equipment necessary to carry out the

purposes of the act.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to reduce and punish high-technology theft and to permit continuation of existing law enforcement efforts at the earliest possible time, it is necessary that this act take immediate effect.

CHAPTER 1492

An act to amend Sections 60110 and 60111 of the Education Code, to add Section 11839 to the Health and Safety Code, and to amend Section 1660.6 of the Vehicle Code, relating to traffic safety.

[Approved by Governor September 26, 1984 Filed with Secretary of State September 27, 1984.]

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

SECTION 1. Section 60110 of the Education Code is amended to read:

60110. It is the intent of the Legislature that the State Board of Education give high priority to the adoption of instructional materials on alcohol, drug, and traffic safety education for classroom use by teachers and pupils. The materials shall be designed to assist the teacher in presenting instruction on alcohol, drug, and traffic safety education and to meet the needs of pupils at their respective grade levels. The materials shall be accurate, objective, and current.

SEC. 2. Section 60111 of the Education Code is amended to read:

60111. The Department of Education shall establish an information center of current alcohol, drug, and traffic safety education materials which may be used by school districts and teachers for instruction on alcohol, drug, and traffic safety education. The information center shall include, but not be limited to, all the following: current state and federal alcohol and drug laws, including those related to traffic safety; samples of effective courses of study, curriculum guides, teaching materials, and reference materials; and reports of current and school district policies related to alcohol, drug, and traffic safety education.

SEC. 3. Section 11839 is added to the Health and Safety Code, to read:

11839. The State Department of Alcohol and Drug Programs shall, in cooperation with the State Department of Mental Health, operate a program to demonstrate model residential alcohol rehabilitation concepts. Facilities of Patton State Hospital shall be used as the site for this program.

The department shall select various program models that have the

greatest potential for changing the behavior of the chronic alcohol-dependent driver. The department shall annually evaluate the success or failure of the program and report to the Legislature its findings and recommendations.

The department shall also develop evaluation criteria using the Patton demonstration program as a basis for study. The evaluation criteria shall be developed to assist counties in evaluating the usefulness of their alcoholic rehabilitation programs.

Referrals to the demonstration program may be made by courts in the same manner as commitments are now made to public or private facilities.

This demonstration and evaluation program shall be operated from funds received by the state from the United States under Section 408 of Title 23 of the United States Code for alcohol traffic safety programs. The department shall submit to the Department of Finance the appropriate documentation for the program to begin as soon as federal funds may be used for this purpose.

SEC. 4. Section 1660.6 of the Vehicle Code is amended to read:

1660.6. The members of the Governor's Intergovernmental Advisory Council on Alcohol, Drugs, and Traffic Safety shall be appointed by, and shall serve at the pleasure of, the Governor. The membership of the council shall include representatives of local community interests. The council shall conduct an evaluation, with component studies, of first offender programs. The council shall develop requests for proposals for the evaluation and shall report its findings to the Legislature on or before December 30, 1985. The council shall make information on first offender programs available to the State Department of Alcohol and Drug Programs.

SEC. 5. Section 1660.6 of the Vehicle Code is amended to read:

1660.6. The members of the Governor's Intergovernmental Advisory Council on Alcohol, Drugs, and Traffic Safety shall be appointed by, and serve at the pleasure of, the Governor. The membership of the council shall include representatives of local community interests. The council shall conduct an evaluation, with component studies, of first offender programs. The council shall develop requests for proposals for the evaluation and shall report its findings to the Legislature on or before December 30, 1986. The council shall make information on first offender programs available to the State Department of Alcohol and Drug Programs.

SEC. 6. Section 5 of this bill incorporates amendments to Section 1660.6 of the Vehicle Code proposed by both this bill and AB 3598. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 1660.6 of the Vehicle Code, and (3) this bill is enacted after AB 3598, in which case Section 4 of this bill shall not become operative.

CHAPTER 1493

An act to amend Section 11580.2 of the Insurance Code, relating to insurance.

[Approved by Governor September 26, 1984. Filed with Secretary of State September 27, 1984.]

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

SECTION 1. Section 11580.2 of the Insurance Code is amended to read:

11580.2. (a) (1) No policy of bodily injury liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle, except for policies which provide insurance in the Republic of Mexico issued or delivered in this state by nonadmitted Mexican insurers, shall be issued or delivered in this state to the owner or operator of a motor vehicle, or shall be issued or delivered by any insurer licensed in this state upon any motor vehicle then principally used or principally garaged in this state, unless the policy contains, or has added to it by endorsement, a provision with coverage limits at least equal to the limits specified in subdivision (m) and in no case less than the financial responsibility requirements specified in Section 16056 of the Vehicle Code insuring the insured, the insured's heirs or legal representative for all sums within such limits which he, she, or they, as the case may be, shall be legally entitled to recover as damages for bodily injury or wrongful death from the owner or operator of an uninsured motor vehicle. The insurer and any named insured, prior to or subsequent to the issuance or renewal of a policy, may, by agreement in writing, in the form specified in paragraph (2), delete the provision covering damage caused by an uninsured motor vehicle (1) completely, or (2) delete such coverage when a motor vehicle is operated by a natural person or persons designated by name, or agree to provide such coverage in an amount less than that required by subdivision (m) but not less than the financial responsibility requirements specified in Section 16056 of the Vehicle Code. Any such agreements by any named insured or agreement for the amount of coverage shall be binding upon every insured to whom the policy or endorsement provisions apply while the policy is in force, and shall continue to be so binding with respect to any continuation or renewal of the policy or with respect to any other policy which extends, changes, supersedes, or replaces the policy issued to the named insured by the same insurer, or with respect to reinstatement of the policy within 30 days of any lapse thereof. A policy shall be excluded from the application of this section if the only coverage with respect to the use of any motor vehicle is limited to the contingent liability arising out of the use of nonowned motor vehicles or if the automobile liability coverage is provided only on an excess or umbrella basis. Nothing in

this section shall be construed to require that uninsured motorist coverage shall be offered or provided in any homeowner policy, personal and residents' liability policy, comprehensive personal liability policy, manufacturers' and contractors' policy, premises liability policy, special multiperil policy, or any other policy or endorsement where automobile liability coverage is offered as incidental to some other basic coverage, notwithstanding that the policy may provide automobile or motor vehicle liability coverage on insured premises or the ways immediately adjoining.

(2) The agreement specified in paragraph (1) shall be in the following form:

"The California Insurance Code requires an insurer to provide uninsured motorists coverage in each bodily injury liability insurance policy it issues covering liability arising out of the ownership, maintenance, or use of a motor vehicle. Such section also permits the insurer and the applicant to delete such coverage completely or to delete such coverage when a motor vehicle is operated by a natural person or persons designated by name, or agree to provide such coverage in an amount less than that required by subdivision (m) of Section 11580.2 of the Insurance Code, but not less than the financial responsibility requirements. Uninsured motorists coverage insures the insured, his heirs, or legal representatives for all sums within the limits established by law, which such person or persons are legally entitled to recover as damages for bodily injury, including any resulting sickness, disease, or death, to him from the owner or operator of an uninsured motor vehicle not owned or operated by the insured or a resident of the same household. An uninsured motor vehicle includes an underinsured motor vehicle as defined in subdivision (p) of Section 11580.2 of the Insurance Code."

The agreement may contain additional statements not in derogation of or in conflict with the foregoing. The execution of the agreement shall relieve the insurer of liability under this section while the agreement remains in effect.

(b) As used in (a) above, "bodily injury" includes sickness or disease, including death, resulting therefrom; the term "named insured" means only the individual or organization named in the declarations of the policy of motor vehicle bodily injury liability insurance referred to in (a) above; as used in (a) above the term "insured" means the named insured and the spouse of the named insured and, while residents of the same household, relatives of either while occupants of a motor vehicle or otherwise, heirs and any other person while in or upon or entering into or alighting from an insured motor vehicle and any person with respect to damages he or she is entitled to recover for care or loss of services because of bodily injury to which the policy provisions or endorsement apply; the term "insured motor vehicle" means the motor vehicle described in the underlying insurance policy of which the uninsured motorist endorsement or coverage is a part, a temporary substitute automobile for which liability coverage is provided in the policy or

a newly acquired automobile for which liability coverage is provided in the policy if the motor vehicle is used by the named insured or with his or her permission or consent, express or implied, and any other automobile not owned by the named insured or any resident of the same household, or by a natural person or persons for whom coverage has been deleted in accordance with subdivision (a) while being operated by the named insured or his or her spouse if a resident of the same household, but the term "insured motor vehicle" shall not include any automobile while used as a public or livery conveyance. As used in this section, the term "uninsured motor vehicle" means a motor vehicle with respect to the ownership, maintenance or use of which there is no bodily injury liability insurance or bond applicable at the time of the accident, or there is such applicable insurance or bond but the company writing the same denies coverage thereunder or refuses to admit coverage thereunder except conditionally or with reservation, or an "underinsured motor vehicle" as defined in subdivision (p), or a motor vehicle used without the permission of the owner thereof if there is no bodily injury liability insurance or bond applicable at the time of the accident with respect to the owner or operator thereof, or the owner or operator thereof be unknown, provided that, with respect to an "uninsured motor vehicle" whose owner or operator is unknown:

(1) The bodily injury has arisen out of physical contact of the automobile with the insured or with an automobile which the insured is occupying.

(2) The insured or someone on his or her behalf shall have reported the accident within 24 hours to the police department of the city where the accident occurred or, if the accident occurred in unincorporated territory then either the sheriff of the county where the accident occurred or the local headquarters of the California Highway Patrol, and have filed with the insurer within 30 days thereafter a statement under oath that the insured or his or her legal representative has or the insured's heirs have a cause of action arising out of the accident for damages against a person or persons whose identity is unascertainable and set forth facts in support thereof. As used in this section, the term "uninsured motor vehicle" shall not include a motor vehicle owned or operated by the named insured or any resident of the same household or self-insured within the meaning of the Safety Responsibility Law of the state in which the motor vehicle is registered or which is owned by the United States of America, Canada, a state or political subdivision of any such government or an agency of any of the foregoing, or a land motor vehicle or trailer operated on rails or crawler treads or while located for use as a residence or premises and not as a vehicle, or a farm-type tractor or equipment designed for use principally off public roads, except while actually upon public roads.

As used in this section, the term "uninsured motor vehicle" also means an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its

insured within the limits specified therein because of insolvency. An insurer's solvency protection shall be applicable only to accidents occurring during a policy period in which its insured's motor vehicle coverage is in effect where the liability insurer of the tortfeasor becomes insolvent within one year of the accident. In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of such coverage, the insurer making the payment, shall to the extent thereof, be entitled to any proceeds which may be recoverable from the assets of the insolvent insurer through any settlement or judgment of the person against the insolvent insurer.

(c) The insurance coverage provided for in this section does not apply either as primary or as excess coverage to:

(1) To property damage sustained by the insured.

(2) To bodily injury of the insured while in or upon or while entering into or alighting from a motor vehicle other than the described motor vehicle if the owner thereof has insurance similar to that provided in this section.

(3) To bodily injury of the insured with respect to which the insured or his or her representative shall, without the written consent of the insurer, make any settlement with or prosecute to judgment any action against any person who may be legally liable therefor.

(4) In any instance where it would inure directly or indirectly to the benefit of any workers' compensation carrier or to any person qualified as a self-insurer under any workers' compensation law, or directly to the benefit of the United States, or any state or any political subdivision thereof.

(5) To establish proof of financial responsibility as provided in subdivisions (a), (b), and (c) of Section 16054 of the Vehicle Code.

(6) To bodily injury of the insured while occupying a motor vehicle owned by an insured, unless the occupied vehicle is an insured motor vehicle.

(7) To bodily injury of the insured when struck by a vehicle owned by an insured.

(d) Subject to paragraph (2) of subdivision (c), the policy or endorsement may provide that if the insured has insurance available to the insured under more than one uninsured motorist coverage provision, any damages shall not be deemed to exceed the higher of the applicable limits of the respective coverages, and such damages shall be prorated between the applicable coverages as the limits of each coverage bear to the total of such limits.

(e) The policy or endorsement added thereto may provide that if the insured has valid and collectible automobile medical payment insurance available to him or her, the damages which the insured shall be entitled to recover from the owner or operator of an uninsured motor vehicle shall be reduced for purposes of uninsured motorist coverage by the amounts paid or due to be paid under the automobile medical payment insurance. This subdivision shall

become operative on January 1, 1971.

(f) The policy or an endorsement added thereto shall provide that the determination as to whether the insured shall be legally entitled to recover damages, and if so entitled, the amount thereof, shall be made by agreement between the insured and the insurer or, in the event of disagreement, by arbitration. The arbitration shall be conducted by a single neutral arbitrator. An award or a judgment confirming an award shall not be conclusive on any party in any action or proceeding between (i) the insured, his or her insurer, his or her legal representative, or his or her heirs and (ii) the uninsured motorist to recover damages arising out of the accident upon which the award is based. If the insured has or may have rights to benefits, other than nonoccupational disability benefits, under any workers' compensation law, the arbitrator shall not proceed with the arbitration until the insured's physical condition is stationary and ratable. In those cases in which the insured claims a permanent disability, the claims shall, unless good cause be shown, be adjudicated by award or settled by compromise and release before the arbitration may proceed. Any demand or petition for arbitration shall contain a declaration, under penalty of perjury, stating whether (i) the insured has a workers' compensation claim; (ii) the claim has proceeded to findings and award or settlement on all issues reasonably contemplated to be determined in that claim; and (iii) if not, what reasons amounting to good cause are grounds for the arbitration to proceed immediately. The arbitration shall be deemed to be a proceeding and the hearing before the arbitrator shall be deemed to be the trial of an issue therein for purposes of issuance of a subpoena by an attorney of a party to the arbitration under Section 1985 of the Code of Civil Procedure. The provisions of Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall be applicable to these determinations, and all rights, remedies, obligations, liabilities and procedures set forth in Article 3 shall be available to both the insured and the insurer at any time after the accident, both before and after the commencement of arbitration, if any, with the following limitations:

(1) Whenever in Article 3, reference is made to the court in which the action is pending, or provision is made for application to the court or obtaining leave of court or approval by the court, the court which shall have jurisdiction for the purposes of this section shall be the superior court of the State of California, in and for any county which is a proper county for the filing of a suit for bodily injury arising out of the accident, against the uninsured motorist, or any county specified in the policy or an endorsement added thereto as a proper county for arbitration or action thereon.

(2) Any such proper court to which application is first made by either the insured or the insurer under the provisions of Article 3 for any discovery or other relief or remedy, shall thereafter be the only court to which either of the parties shall make any applications under

Article 3 with respect to the same accident, subject, however, to the right of the court to grant a change of venue after a hearing upon notice, upon any of the grounds upon which change of venue might be granted in an action filed in the superior court.

(3) A deposition pursuant to the provisions of Section 2016 of the Code of Civil Procedure may be taken without leave of court, except that leave of court, granted with or without notice and for good cause shown, must be obtained if the notice of the taking of the deposition is served by either party within 20 days after the accident.

(4) The provisions of paragraph (4) of subdivision (a) of Section 2019 of the Code of Civil Procedure shall not be applicable to discovery under this section.

(5) For the purposes of discovery under this section, the insured and the insurer shall each be deemed to be "a party to the record of any civil action or proceedings," where that phrase is used in paragraph (2) of subdivision (b) of Section 2019 of the Code of Civil Procedure.

(6) Interrogatories under the provisions of Section 2030 of the Code of Civil Procedure and requests for admission under Section 2033 of the Code of Civil Procedure may be served by either the insured or the insurer upon the other at any time more than 20 days after the accident without leave of court.

(7) Nothing in this section shall be construed to limit the rights of any party to discovery in any action pending or which may hereafter be pending in any court.

(g) The insurer paying a claim under an uninsured motorist endorsement or coverage shall be entitled to be subrogated to the rights of the insured to whom such claim was paid against any person legally liable for such injury or death to the extent that payment was made. Such action may be brought within three years from the date that payment was made hereunder.

(h) An insured entitled to recovery under the uninsured motorist endorsement or coverage shall be reimbursed within the conditions stated herein without being required to sign any release or waiver of rights to which he or she may be entitled under any other insurance coverage applicable; nor shall payment under this section to such insured be delayed or made contingent upon the decisions as to liability or distribution of loss costs under other bodily injury liability insurance or any bond applicable to the accident. Any loss payable under the terms of the uninsured motorist endorsement or coverage to or for any person may be reduced:

(1) By the amount paid and the present value of all amounts payable to him or her, his or her executor, administrator, heirs, or legal representative under any workers' compensation law, exclusive of nonoccupational disability benefits.

(2) By the amount the insured is entitled to recover from any other person insured under the underlying liability insurance policy of which the uninsured motorist endorsement or coverage is a part.

(i) No cause of action shall accrue to the insured under any policy

or endorsement provision issued pursuant to this section unless within one year from the date of the accident:

(1) Suit for bodily injury has been filed against the uninsured motorist, in a court of competent jurisdiction and notice of such suit has been given the insurer, or

(2) Agreement as to the amount due under the policy has been concluded, or

(3) The insured has formally instituted arbitration proceedings.

(j) Notwithstanding the provisions of subdivisions (b) and (i), in the event the accident occurs in any other state or foreign jurisdiction to which coverage is extended under the policy and the insurer of the tortfeasor becomes insolvent, any action authorized pursuant to the provisions of this section may be maintained within three months of the insolvency of the tortfeasor's insurer, but in no event later than the pertinent period of limitation of the jurisdiction in which the accident occurred.

(k) Notwithstanding the provisions of subdivision (i), any insurer whose insured has made a claim under his or her uninsured motorist coverage, and such claim is pending, shall, at least 30 days before the expiration of the applicable statute of limitation, notify its insured in writing of the statute of limitation applicable to the injury or death. Failure of the insurer to provide the written notice shall operate to toll any applicable statute of limitation or other time limitation for a period of 30 days from the date the written notice is actually given. The notice shall not be required if the insurer has received notice that the insured is represented by an attorney.

(*l*) As used in subdivision (b), "public or livery conveyance," or terms of similar import, shall not include the operation or use of a motor vehicle by the named insured in the performance of volunteer services for a nonprofit charitable organization or governmental agency by providing social service transportation as defined in subdivision (f) of Section 11580.1. This subdivision shall apply only to policies of insurance issued, amended, or renewed on or after January 1, 1976.

(m) Coverage provided under an uninsured motorist endorsement or coverage shall be offered with coverage limits equal to the limits of liability for bodily injury in the underlying policy of insurance, but shall not be required to be offered with limits in excess of the following amounts:

(1) A limit of thirty thousand dollars ($30,000) because of bodily injury to or death of one person in any one accident.

(2) Subject to the limit for one person set forth in paragraph (1), a limit of sixty thousand dollars ($60,000) because of bodily injury to or death of two or more persons in any one accident.

(n) Underinsured motorist coverage shall be offered with limits equal to the limits of liability for the insured's uninsured motorist limits in the underlying policy, and may be offered with limits in excess of such uninsured motorist coverage. For the purposes of this section, uninsured and underinsured motorist coverage shall be

offered as a single coverage. However, an insurer may offer coverage for damages for bodily injury or wrongful death from the owner or operator of an underinsured motor vehicle at greater limits than an uninsured motor vehicle.

(o) If an insured has failed to provide an insurer with wage loss information or medical treatment record releases within 15 days of the insurer's request or has failed to submit to a medical examination arranged by the insurer within 20 days of the insurer's request, the insurer may, at any time prior to 30 days before the actual arbitration proceedings commence, request, and the insured shall furnish, wage loss information or medical treatment record releases, and the insurer may require the insured, except during periods of hospitalization, to make himself or herself available for a medical examination. The wage loss information or medical treatment record releases shall be submitted by the insured within 10 days of request and the medical examination shall be arranged by the insurer no sooner than 10 days after request, unless the insured agrees to an earlier examination date, and not later than 20 days after the request. If the insured fails to comply with the requirements of this subdivision, the actual arbitration proceedings shall be stayed for at least 30 days following compliance by the insured. The proceedings shall be scheduled as soon as practicable following expiration of the 30-day period.

(p) This subdivision applies only when bodily injury, as defined in subdivision (b), is caused by an underinsured motor vehicle. If the provisions of this subdivision conflict with subdivisions (a) through (o), the provisions of this subdivision shall prevail.

(1) As used in this subdivision, "an insured motor vehicle" is one that is insured under a motor vehicle liability policy, or automobile liability insurance policy, self-insured, or for which a cash deposit or bond has been posted to satisfy a financial responsibility law.

(2) "Underinsured motor vehicle" means a motor vehicle that is an insured motor vehicle but insured for an amount that is less than the uninsured motorist limits carried on the motor vehicle of the injured person.

(3) This coverage does not apply to any bodily injury until the limits of bodily injury liability policies applicable to all insured motor vehicles causing the injury have been exhausted by payment of judgments or settlements, and proof of such is submitted to the insurer providing the underinsured motorist coverage.

(4) When bodily injury is caused by one or more motor vehicles, whether insured, underinsured, or uninsured, the maximum liability of the insurer providing the underinsured motorist coverage shall not exceed the insured's underinsured motorist coverage limits, less the amount paid to the insured by or for any person or organization that may be held legally liable for the injury.

(5) The insurer paying a claim under this subdivision shall, to the extent of such payment, be entitled to reimbursement or credit in the amount received by the insured from the owner or operator of

the underinsured motor vehicle or the insurer of such owner or operator.

(6) If the insured brings an action against the owner or operator of an underinsured motor vehicle, he or she shall forthwith give to the insurer providing the underinsured motorist coverage a copy of the complaint by personal service or certified mail. All pleadings and depositions shall be made available for copying or copies furnished the insurer, at the insurer's expense, within a reasonable time.

(7) Underinsured motorist coverage shall be included in all policies of bodily injury liability insurance providing uninsured motorist coverage issued or renewed on or after July 1, 1985. Notwithstanding this section, an agreement to delete uninsured motorist coverage completely, or with respect to a person or persons designated by name, executed prior to July 1, 1985, shall remain in full force and effect.

(q) Regardless of the number of vehicles involved whether insured or not, persons covered, claims made, premiums paid or the number of premiums shown on the policy, in no event shall the limit of liability for two or more motor vehicles or two or more policies be added together, combined, or stacked to determine the limit of insurance coverage available to injured persons.

SEC. 2. Section 11580.2 of the Insurance Code is amended to read:

11580.2. (a) (1) No policy of bodily injury liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle, except for policies which provide insurance in the Republic of Mexico issued or delivered in this state by nonadmitted Mexican insurers, shall be issued or delivered in this state to the owner or operator of a motor vehicle, or shall be issued or delivered by any insurer licensed in this state upon any motor vehicle then principally used or principally garaged in this state, unless the policy contains, or has added to it by endorsement, a provision with coverage limits at least equal to the limits specified in subdivision (m) and in no case less than the financial responsibility requirements specified in Section 16056 of the Vehicle Code insuring the insured, the insured's heirs or legal representative for all sums within such limits which he, she, or they, as the case may be, shall be legally entitled to recover as damages for bodily injury or wrongful death from the owner or operator of an uninsured motor vehicle. The insurer and any named insured, prior to or subsequent to the issuance or renewal of a policy, may, by agreement in writing, in the form specified in paragraph (2), delete the provision covering damage caused by an uninsured motor vehicle (1) completely, or (2) delete such coverage when a motor vehicle is operated by a natural person or persons designated by name, or agree to provide such coverage in an amount less than that required by subdivision (m) but not less than the financial responsibility requirements specified in Section 16056 of the Vehicle Code. Any such agreements by any named insured or agreement for the amount of coverage shall be

binding upon every insured to whom the policy or endorsement provisions apply while the policy is in force, and shall continue to be so binding with respect to any continuation or renewal of the policy or with respect to any other policy which extends, changes, supersedes, or replaces the policy issued to the named insured by the same insurer, or with respect to reinstatement of the policy within 30 days of any lapse thereof. A policy shall be excluded from the application of this section if the only coverage with respect to the use of any motor vehicle is limited to the contingent liability arising out of the use of nonowned motor vehicles or if the automobile liability coverage is provided only on an excess or umbrella basis. Nothing in this section shall be construed to require that uninsured motorist coverage shall be offered or provided in any homeowner policy, personal and residents' liability policy, comprehensive personal liability policy, manufacturers' and contractors' policy, premises liability policy, special multiperil policy, or any other policy or endorsement where automobile liability coverage is offered as incidental to some other basic coverage, notwithstanding that the policy may provide automobile or motor vehicle liability coverage on insured premises or the ways immediately adjoining.

(2) The agreement specified in paragraph (1) shall be in the following form:

"The California Insurance Code requires an insurer to provide uninsured motorists coverage in each bodily injury liability insurance policy it issues covering liability arising out of the ownership, maintenance, or use of a motor vehicle. Such section also permits the insurer and the applicant to delete such coverage completely or to delete such coverage when a motor vehicle is operated by a natural person or persons designated by name, or agree to provide such coverage in an amount less than that required by subdivision (m) of Section 11580.2 of the Insurance Code, but not less than the financial responsibility requirements. Uninsured motorists coverage insures the insured, his heirs, or legal representatives for all sums within the limits established by law, which such person or persons are legally entitled to recover as damages for bodily injury, including any resulting sickness, disease, or death, to him from the owner or operator of an uninsured motor vehicle not owned or operated by the insured or a resident of the same household. An uninsured motor vehicle includes an underinsured motor vehicle as defined in subdivision (p) of Section 11580.2 of the Insurance Code."

The agreement may contain additional statements not in derogation of or in conflict with the foregoing. The execution of the agreement shall relieve the insurer of liability under this section while the agreement remains in effect.

(b) As used in (a) above, "bodily injury" includes sickness or disease, including death, resulting therefrom; the term "named insured" means only the individual or organization named in the declarations of the policy of motor vehicle bodily injury liability insurance referred to in (a) above; as used in (a) above the term

"insured" means the named insured and the spouse of the named insured and, while residents of the same household, relatives of either while occupants of a motor vehicle or otherwise, heirs and any other person while in or upon or entering into or alighting from an insured motor vehicle and any person with respect to damages he or she is entitled to recover for care or loss of services because of bodily injury to which the policy provisions or endorsement apply; the term "insured motor vehicle" means the motor vehicle described in the underlying insurance policy of which the uninsured motorist endorsement or coverage is a part, a temporary substitute automobile for which liability coverage is provided in the policy or a newly acquired automobile for which liability coverage is provided in the policy if the motor vehicle is used by the named insured or with his or her permission or consent, express or implied, and any other automobile not owned by the named insured or any resident of the same household, or by a natural person or persons for whom coverage has been deleted in accordance with subdivision (a) while being operated by the named insured or his or her spouse if a resident of the same household, but the term "insured motor vehicle" shall not include any automobile while used as a public or livery conveyance. As used in this section, the term "uninsured motor vehicle" means a motor vehicle with respect to the ownership, maintenance or use of which there is no bodily injury liability insurance or bond applicable at the time of the accident, or there is such applicable insurance or bond but the company writing the same denies coverage thereunder or refuses to admit coverage thereunder except conditionally or with reservation, or an "underinsured motor vehicle" as defined in subdivision (p), or a motor vehicle used without the permission of the owner thereof if there is no bodily injury liability insurance or bond applicable at the time of the accident with respect to the owner or operator thereof, or the owner or operator thereof be unknown, provided that, with respect to an "uninsured motor vehicle" whose owner or operator is unknown:

(1) The bodily injury has arisen out of physical contact of the automobile with the insured or with an automobile which the insured is occupying.

(2) The insured or someone on his or her behalf shall have reported the accident within 24 hours to the police department of the city where the accident occurred or, if the accident occurred in unincorporated territory then either the sheriff of the county where the accident occurred or the local headquarters of the California Highway Patrol, and have filed with the insurer within 30 days thereafter a statement under oath that the insured or his or her legal representative has or the insured's heirs have a cause of action arising out of the accident for damages against a person or persons whose identity is unascertainable and set forth facts in support thereof. As used in this section, the term "uninsured motor vehicle" shall not include a motor vehicle owned or operated by the named insured or any resident of the same household or self-insured within the

meaning of the Financial Responsibility Law of the state in which the motor vehicle is registered or which is owned by the United States of America, Canada, a state or political subdivision of any such government or an agency of any of the foregoing, or a land motor vehicle or trailer while located for use as a residence or premises and not as a vehicle, or any equipment or vehicle designed or modified for use primarily off public roads, except while actually upon public roads.

As used in this section, the term "uninsured motor vehicle" also means an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency. An insurer's solvency protection shall be applicable only to accidents occurring during a policy period in which its insured's motor vehicle coverage is in effect where the liability insurer of the tortfeasor becomes insolvent within one year of the accident. In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of such coverage, the insurer making the payment, shall to the extent thereof, be entitled to any proceeds which may be recoverable from the assets of the insolvent insurer through any settlement or judgment of the person against the insolvent insurer.

Nothing in this section is intended to exclude from the definition of an uninsured motor vehicle any motorcycle or private passenger type four wheel drive motor vehicle if that vehicle was subject to and failed to comply with the Financial Responsibility Law of this state.

(c) The insurance coverage provided for in this section does not apply either as primary or as excess coverage to:

(1) To property damage sustained by the insured.

(2) To bodily injury of the insured while in or upon or while entering into or alighting from a motor vehicle other than the described motor vehicle if the owner thereof has insurance similar to that provided in this section.

(3) To bodily injury of the insured with respect to which the insured or his or her representative shall, without the written consent of the insurer, make any settlement with or prosecute to judgment any action against any person who may be legally liable therefor.

(4) In any instance where it would inure directly or indirectly to the benefit of any workers' compensation carrier or to any person qualified as a self-insurer under any workers' compensation law, or directly to the benefit of the United States, or any state or any political subdivision thereof.

(5) To establish proof of financial responsibility as provided in subdivisions (a), (b), and (c) of Section 16054 of the Vehicle Code.

(6) To bodily injury of the insured while occupying a motor vehicle owned by an insured, unless the occupied vehicle is an insured motor vehicle.

(7) To bodily injury of the insured when struck by a vehicle

owned by an insured.

(d) Subject to paragraph (2) of subdivision (c), the policy or endorsement may provide that if the insured has insurance available to the insured under more than one uninsured motorist coverage provision, any damages shall not be deemed to exceed the higher of the applicable limits of the respective coverages, and such damages shall be prorated between the applicable coverages as the limits of each coverage bear to the total of such limits.

(e) The policy or endorsement added thereto may provide that if the insured has valid and collectible automobile medical payment insurance available to him or her, the damages which the insured shall be entitled to recover from the owner or operator of an uninsured motor vehicle shall be reduced for purposes of uninsured motorist coverage by the amounts paid or due to be paid under the automobile medical payment insurance. This subdivision shall become operative on January 1, 1971.

(f) The policy or an endorsement added thereto shall provide that the determination as to whether the insured shall be legally entitled to recover damages, and if so entitled, the amount thereof, shall be made by agreement between the insured and the insurer or, in the event of disagreement, by arbitration. The arbitration shall be conducted by a single neutral arbitrator. An award or a judgment confirming an award shall not be conclusive on any party in any action or proceeding between (i) the insured, his or her insurer, his or her legal representative, or his or her heirs and (ii) the uninsured motorist to recover damages arising out of the accident upon which the award is based. If the insured has or may have rights to benefits, other than nonoccupational disability benefits, under any workers' compensation law, the arbitrator shall not proceed with the arbitration until the insured's physical condition is stationary and ratable. In those cases in which the insured claims a permanent disability, the claims shall, unless good cause be shown, be adjudicated by award or settled by compromise and release before the arbitration may proceed. Any demand or petition for arbitration shall contain a declaration, under penalty of perjury, stating whether (i) the insured has a workers' compensation claim; (ii) the claim has proceeded to findings and award or settlement on all issues reasonably contemplated to be determined in that claim; and (iii) if not, what reasons amounting to good cause are grounds for the arbitration to proceed immediately. The arbitration shall be deemed to be a proceeding and the hearing before the arbitrator shall be deemed to be the trial of an issue therein for purposes of issuance of a subpoena by an attorney of a party to the arbitration under Section 1985 of the Code of Civil Procedure. The provisions of Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall be applicable to these determinations, and all rights, remedies, obligations, liabilities and procedures set forth in Article 3 shall be available to both the insured and the insurer at any time after the accident, both before and after

the commencement of arbitration, if any, with the following limitations:

(1) Whenever in Article 3, reference is made to the court in which the action is pending, or provision is made for application to the court or obtaining leave of court or approval by the court, the court which shall have jurisdiction for the purposes of this section shall be the superior court of the State of California, in and for any county which is a proper county for the filing of a suit for bodily injury arising out of the accident, against the uninsured motorist, or any county specified in the policy or an endorsement added thereto as a proper county for arbitration or action thereon.

(2) Any such proper court to which application is first made by either the insured or the insurer under the provisions of Article 3 for any discovery or other relief or remedy, shall thereafter be the only court to which either of the parties shall make any applications under Article 3 with respect to the same accident, subject, however, to the right of the court to grant a change of venue after a hearing upon notice, upon any of the grounds upon which change of venue might be granted in an action filed in the superior court.

(3) A deposition pursuant to the provisions of Section 2016 of the Code of Civil Procedure may be taken without leave of court, except that leave of court, granted with or without notice and for good cause shown, must be obtained if the notice of the taking of the deposition is served by either party within 20 days after the accident.

(4) The provisions of paragraph (4) of subdivision (a) of Section 2019 of the Code of Civil Procedure shall not be applicable to discovery under this section.

(5) For the purposes of discovery under this section, the insured and the insurer shall each be deemed to be "a party to the record of any civil action or proceedings," where that phrase is used in paragraph (2) of subdivision (b) of Section 2019 of the Code of Civil Procedure.

(6) Interrogatories under the provisions of Section 2030 of the Code of Civil Procedure and requests for admission under Section 2033 of the Code of Civil Procedure may be served by either the insured or the insurer upon the other at any time more than 20 days after the accident without leave of court.

(7) Nothing in this section shall be construed to limit the rights of any party to discovery in any action pending or which may hereafter be pending in any court.

(g) The insurer paying a claim under an uninsured motorist endorsement or coverage shall be entitled to be subrogated to the rights of the insured to whom such claim was paid against any person legally liable for such injury or death to the extent that payment was made. Such action may be brought within three years from the date that payment was made hereunder.

(h) An insured entitled to recovery under the uninsured motorist endorsement or coverage shall be reimbursed within the conditions stated herein without being required to sign any release or waiver

of rights to which he or she may be entitled under any other insurance coverage applicable; nor shall payment under this section to such insured be delayed or made contingent upon the decisions as to liability or distribution of loss costs under other bodily injury liability insurance or any bond applicable to the accident. Any loss payable under the terms of the uninsured motorist endorsement or coverage to or for any person may be reduced:

(1) By the amount paid and the present value of all amounts payable to him or her, his or her executor, administrator, heirs, or legal representative under any workers' compensation law, exclusive of nonoccupational disability benefits.

(2) By the amount the insured is entitled to recover from any other person insured under the underlying liability insurance policy of which the uninsured motorist endorsement or coverage is a part.

(i) No cause of action shall accrue to the insured under any policy or endorsement provision issued pursuant to this section unless within one year from the date of the accident:

(1) Suit for bodily injury has been filed against the uninsured motorist, in a court of competent jurisdiction and notice of such suit has been given the insurer, or

(2) Agreement as to the amount due under the policy has been concluded, or

(3) The insured has formally instituted arbitration proceedings.

(j) Notwithstanding the provisions of subdivisions (b) and (i), in the event the accident occurs in any other state or foreign jurisdiction to which coverage is extended under the policy and the insurer of the tortfeasor becomes insolvent, any action authorized pursuant to the provisions of this section may be maintained within three months of the insolvency of the tortfeasor's insurer, but in no event later than the pertinent period of limitation of the jurisdiction in which the accident occurred.

(k) Notwithstanding the provisions of subdivision (i), any insurer whose insured has made a claim under his or her uninsured motorist coverage, and such claim is pending, shall, at least 30 days before the expiration of the applicable statute of limitation, notify its insured in writing of the statute of limitation applicable to the injury or death. Failure of the insurer to provide the written notice shall operate to toll any applicable statute of limitation or other time limitation for a period of 30 days from the date the written notice is actually given. The notice shall not be required if the insurer has received notice that the insured is represented by an attorney.

(*l*) As used in subdivision (b), "public or livery conveyance," or terms of similar import, shall not include the operation or use of a motor vehicle by the named insured in the performance of volunteer services for a nonprofit charitable organization or governmental agency by providing social service transportation as defined in subdivision (f) of Section 11580.1. This subdivision shall apply only to policies of insurance issued, amended, or renewed on or after January 1, 1976.

(m) Coverage provided under an uninsured motorist endorsement or coverage shall be offered with coverage limits equal to the limits of liability for bodily injury in the underlying policy of insurance, but shall not be required to be offered with limits in excess of the following amounts:

(1) A limit of thirty thousand dollars ($30,000) because of bodily injury to or death of one person in any one accident.

(2) Subject to the limit for one person set forth in paragraph (1), a limit of sixty thousand dollars ($60,000) because of bodily injury to or death of two or more persons in any one accident.

(n) Underinsured motorist coverage shall be offered with limits equal to the limits of liability for the insured's uninsured motorist limits in the underlying policy, and may be offered with limits in excess of such uninsured motorist coverage. For the purposes of this section, uninsured and underinsured motorist coverage shall be offered as a single coverage. However, an insurer may offer coverage for damages for bodily injury or wrongful death from the owner or operator of an underinsured motor vehicle at greater limits than an uninsured motor vehicle.

(o) If an insured has failed to provide an insurer with wage loss information or medical treatment record releases within 15 days of the insurer's request or has failed to submit to a medical examination arranged by the insurer within 20 days of the insurer's request, the insurer may, at any time prior to 30 days before the actual arbitration proceedings commence, request, and the insured shall furnish, wage loss information or medical treatment record releases, and the insurer may require the insured, except during periods of hospitalization, to make himself or herself available for a medical examination. The wage loss information or medical treatment record releases shall be submitted by the insured within 10 days of request and the medical examination shall be arranged by the insurer no sooner than 10 days after request, unless the insured agrees to an earlier examination date, and not later than 20 days after the request. If the insured fails to comply with the requirements of this subdivision, the actual arbitration proceedings shall be stayed for at least 30 days following compliance by the insured. The proceedings shall be scheduled as soon as practicable following expiration of the 30-day period.

(p) This subdivision applies only when bodily injury, as defined in subdivision (b), is caused by an underinsured motor vehicle. If the provisions of this subdivision conflict with subdivisions (a) through (o), the provisions of this subdivision shall prevail.

(1) As used in this subdivision, "an insured motor vehicle" is one that is insured under a motor vehicle liability policy, or automobile liability insurance policy, self-insured, or for which a cash deposit or bond has been posted to satisfy a financial responsibility law.

(2) "Underinsured motor vehicle" means a motor vehicle that is an insured motor vehicle but insured for an amount that is less than the uninsured motorist limits carried on the motor vehicle of the

injured person.

(3) This coverage does not apply to any bodily injury until the limits of bodily injury liability policies applicable to all insured motor vehicles causing the injury have been exhausted by payment of judgments or settlements, and proof of such is submitted to the insurer providing the underinsured motorist coverage.

(4) When bodily injury is caused by one or more motor vehicles, whether insured, underinsured, or uninsured, the maximum liability of the insurer providing the underinsured motorist coverage shall not exceed the insured's underinsured motorist coverage limits, less the amount paid to the insured by or for any person or organization that may be held legally liable for the injury.

(5) The insurer paying a claim under this subdivision shall, to the extent of such payment, be entitled to reimbursement or credit in the amount received by the insured from the owner or operator of the underinsured motor vehicle or the insurer of such owner or operator.

(6) If the insured brings an action against the owner or operator of an underinsured motor vehicle, he or she shall forthwith give to the insurer providing the underinsured motorist coverage a copy of the complaint by personal service or certified mail. All pleadings and depositions shall be made available for copying or copies furnished the insurer, at the insurer's expense, within a reasonable time.

(7) Underinsured motorist coverage shall be included in all policies of bodily injury liability insurance providing uninsured motorist coverage issued or renewed on or after July 1, 1985. Notwithstanding this section, an agreement to delete uninsured motorist coverage completely, or with respect to a person or persons designated by name, executed prior to July 1, 1985, shall remain in full force and effect.

(q) Regardless of the number of vehicles involved whether insured or not, persons covered, claims made, premiums paid or the number of premiums shown on the policy, in no event shall the limit of liability for two or more motor vehicles or two or more policies be added together, combined, or stacked to determine the limit of insurance coverage available to injured persons.

SEC. 3. Section 2 of this bill incorporates amendments to Section 11580.2 of the Insurance Code proposed by both this bill and SB 1879. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 11580.2 of the Insurance Code, and (3) this bill is enacted after SB 1879, in which case Section 1 of this bill shall not become operative.

CHAPTER 1494

An act to add Section 7108.6 to the Business and Professions Code, relating to contractors.

[Approved by Governor September 26, 1984. Filed with Secretary of State September 27, 1984.]

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

SECTION 1. Section 7108.6 is added to the Business and Professions Code, to read:

7108.6. All licensed contractors are required to pay all transportation charges submitted by a dump truck carrier, duly licensed and subject to regulation by the Public Utilities Commission, by the 20th day following the last day of the calendar month in which the transportation was performed, provided that the charges, including all necessary documentation, are submitted by the fifth day following the last day of the calendar month in which the transportation was performed. The payment shall be made, unless otherwise agreed to in writing by the parties and subject to the approval of the Public Utilities Commission. Any violation of this section constitutes a cause for disciplinary action under Section 7120, but does not constitute grounds for a civil action. However, this section shall not be construed to prohibit the bringing of a civil action under any other provision of law.

This section applies to all private works of improvement and to all public works of improvement.

CHAPTER 1495

An act to amend Section 243.4 of the Penal Code, relating to sexual battery.

[Approved by Governor September 26, 1984. Filed with Secretary of State September 27, 1984.]

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

SECTION 1. Section 243.4 of the Penal Code is amended to read:

243.4. (a) Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, gratification, or abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.

(b) Any person who touches an intimate part of another person

who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, gratification, or abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.

(c) As used in this section, "intimate part" means the sexual organ, anus, groin, or buttocks of any person, and the breast of a female. Sexual battery does not include the crime of rape as defined in Sections 261 and 289. As used in this section, "touches" means physical contact with the skin of another person.

As used in this section, "seriously disabled" means a person with severe physical or sensory disabilities.

As used in this section, "medically incapacitated" means a person who is incapacitated as a result of prescribed sedatives, anesthesia, or other medication.

As used in this section, "institutionalized" means a person who is located voluntarily or involuntarily in a hospital, medical treatment facility, nursing home, acute care facility, or mental hospital.

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

CHAPTER 1496

An act to add Division 2.5 (commencing with Section 60400) to Title 6 of the Government Code, relating to districts.

[Approved by Governor September 27, 1984. Filed with Secretary of State September 27, 1984.]

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

SECTION 1. Division 2.5 (commencing with Section 60400) is added to Title 6 of the Government Code, to read:

DIVISION 2.5. ROSSMOOR SPECIAL COMMUNITY SERVICES DISTRICT

PART 1. INTRODUCTORY PROVISIONS

CHAPTER 1. SHORT TITLE

60400. This division shall be known and may be cited as the Rossmoor Special Community Services District Law.

60401. This division shall be applicable only to the retirement community commonly known as Rossmoor in the City of Walnut Creek.

CHAPTER 2. DEFINITIONS

60410. Unless the context otherwise requires, the provisions of this chapter shall govern the construction of this division.

60411. The definition of a word applies to any of its variants.

60412. "Board" means the board of directors of a district.

60413. "Clerk" means the clerk of the legislative body of the city in which the district or proposed district is situated.

60414. "Community facilities" means buildings, recreational facilities, or services managed, operated, and maintained by a district, including, but not limited to, security, medical, education, transportation, newspaper, cable television, street lighting, parking, landscaping, or gardening.

60415. "Condominium housing project" means a housing project that is managed, operated, and maintained, but not owned, by a mutual corporation.

60416. "Cooperative housing project" means a housing project that is owned, managed, operated, and maintained by a mutual corporation.

60417. "District" means a special community services district formed under the provisions of this division.

60418. "Dwelling unit" means that portion of a project that is designated for the occupancy of a member or owner.

60419. "Limited common areas" includes those areas on the plans of a condominium housing project designated as verandas, balconies, patios, carports, or garages that are reserved for the exclusive use of the occupant of a dwelling unit.

60420. "Member" means a member of a cooperative housing project who owns a share of stock in a mutual corporation which entitles the member to occupy a designated dwelling unit.

60421. "Mutual corporation" means a nonprofit corporation organized pursuant to the Nonprofit Corporation Law, Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code, to manage, operate, and maintain, but not own, a condominium housing project or to own, manage, operate, and maintain a cooperative housing project.

60422. "Ordinance" includes a resolution.

60423. "Owner" means the purchaser of a dwelling unit in a condominium housing project who is the owner of a dwelling unit and a proportionate share of the limited common areas and the unlimited common areas.

60424. "President" means the president of the board.

60425. "Secretary" means the secretary of the board.

60426. "Treasurer" means the treasurer of the board.

60427. "Unlimited common areas" includes all areas within the geographical boundaries of the condominium or cooperative housing project that are not designated as a dwelling unit or limited common areas and which are for the use and benefit of the occupants of the project.

60428. "Vice president" means the vice president of the board.

60429. "Voter" means a person included within the meaning of that term, as defined by Section 18 of the Elections Code, who is also a resident of the district or proposed district and who is an occupant of a dwelling unit either as a member of a cooperative housing project or as the owner of a condominium housing unit.

60430. This division shall be liberally construed to effect its purpose.

CHAPTER 3. GENERAL

60440. The formation of a district shall be conducted pursuant to Part 2 (commencing with Section 60500) and initiation, conduct, and completion of changes of organization or reorganization shall be conducted, except as otherwise provided in this division, in accordance with Division 1 (commencing with Section 56000) of Title 6.

PART 2. FORMATION

CHAPTER 1. PETITION FOR FORMATION

60500. The city council of the City of Walnut Creek may establish the Rossmoor Special Community Services District within the incorporated territory which contains 5,000 or more residential units that is commonly referred to as the retirement community of Rossmoor within the City of Walnut Creek pursuant to this division.

60501. A petition to form a district shall be signed by not less than 10 percent of the voters residing in the territory proposed to be formed into a district and addressed to the legislative body of the city in which the territory of the proposed district is located. The petition may consist of any number of separate instruments, each of which shall comply with all of the requirements for a petition, except as to the number of signatures. The petition shall be accompanied by the payment of the fees determined by the City of Walnut Creek as necessary to offset costs.

60502. The petition shall contain all of the following information:

(a) The proposed name of the district.

(b) A general description of the exterior boundaries of the district.

(c) A request that a district be formed pursuant to this division.

(d) A statement of the purposes set forth in Section 60725 for which the district is to be formed.

(e) A general statement of the public interest and economic feasibility of the district's formation.

(f) The population, population density, land area and land uses, and per capita assessed valuation of the proposed district, its proximity to other populated areas, and an estimate of the amount of increase in the population during the next 10 years.

(g) The need for additional services in the proposed district, the present cost and adequacy of existing governmental services in the area, and future needs for additional services.

(h) The economic effect of the district formation on the existing governmental structure.

(i) The demographic composition of the population within the proposed district, and the type of residential dwellings within the district.

(j) A description of the existing public capital facilities and community facilities.

60503. When the petition is filed in the office of the clerk, the legislative body of the city shall adopt an ordinance declaring its intention to call an election in the district to submit to the voters of the district a proposition for the formation of the district pursuant to the provisions of this division.

60504. The ordinance adopted pursuant to Section 60503 shall contain all of the following information:

(a) A statement that a petition for the formation of a district pursuant to this division has been filed with the legislative body of the city.

(b) A description of the exterior boundaries of the district.

(c) A general description of the purposes for which the district is to be organized, as requested in the petition.

(d) The name of the proposed district.

(e) A statement that an election will be called in the district to submit to the voters of the proposed district a proposition for the formation of the district.

(f) A statement that a general description of the proposed district and a map showing the exterior boundaries of the district in relation to the immediate contiguous territory are on file in the office of the clerk and that the map will govern all details as to the boundaries of the district.

(g) A statement that a hearing will be held regarding the formation of the district.

(h) The time and place for the hearing.

(i) A statement that protests will be considered and that requests, in writing, for exclusion of lands from the proposed district will be heard and considered at the hearing.

60505. The legislative body of the city shall not be deprived of jurisdiction to proceed with the hearing, nor shall any action on the petition be invalidated because of a clerical error in the published notice.

60506. The words special community services district need not be

included in the name of the district.

60507. The ordinance shall be published in a newspaper of general circulation in accordance with the requirements of Section 6063.

CHAPTER 2. HEARING ON PETITION

60520. At the time stated in the notice of hearing, the legislative body of the city shall consider the petition and those persons appearing in favor of the petition and any protests made orally or in writing against the formation of the proposed district.

60521. At the hearing, any owner of land in the proposed district may present to the legislative body of the city a request, in writing, for exclusion of such land, or any part of such land, and any owner of land outside the proposed district may present to the legislative body of the city a request, in writing, for inclusion of such land in the proposed district.

60522. The legislative body of the city may adjourn the hearing from time to time, not to exceed four calendar weeks.

60523. At the hearing upon the petition, the legislative body of the city shall determine whether the petition complies with this division. Its findings in favor of the genuineness and sufficiency of the petition and notice is final and conclusive against all persons, except a proceeding brought by the Attorney General on behalf of the State of California within one year of the date of the order declaring the district formed.

60524. At the conclusion of the final hearing, the legislative body of the city may fix the boundaries of the proposed district. In doing so, it shall exclude from the proposed district any land which it finds will not be benefited, and it may include in the district any land which it finds will be benefited, if it also finds it will be in the interest of the district to include the land. The legislative body of the city, within its legislative discretion, may dismiss the petition and terminate the proceedings or call an election, to be held in the proposed district, for the purpose of determining whether the district shall be formed.

If the legislative body of the city determines and finds, from the evidence taken at the hearing, that 80 percent of the voters within the proposed district have signed the petition and that no written or oral protests have been received or offered at the hearing or hearings, and, if the legislative body has not dismissed the petition, the legislative body of the city may dispense with an election and, by resolution, declare the district duly organized; give the name of the district; the purposes for which it is formed; and describe its boundaries. However, if one or more written or oral protests are received by the legislative body, the legislative body may review the protest or protests received and determine whether to conduct an election or declare that the district is formed without an election.

60525. Where territory has been excluded from a district by the

legislative body of the city, it shall not thereafter, in the absence of a finding based upon substantial evidence of changed conditions, be included or annexed.

60526. If the legislative body determines that an election shall be called, the legislative body shall designate the name of the proposed district, as specified in the petition for formation of the district.

CHAPTER 3. ELECTION ON FORMATION

60540. If the legislative body of the city determines that an election shall be held, it shall, by ordinance, call and give notice of the election to be held in the proposed district and for the selection of persons who shall serve as the directors of the district.

60541. The legislative body of the city may call an election within the proposed district not less than 30 days, nor more than 60 days, from the date of the final hearing on the formation petition.

60542. Prior to the date fixed for the election, the ordinance ordering the holding of the election shall be published in a newspaper of general circulation in accordance with the requirements of Section 6063.

60543. The notice of election shall contain all of the following:

(a) The date of the election.

(b) The name of the proposed district.

(c) The purposes for which the proposed district is to be formed.

(d) A description of the boundaries of the proposed district.

(e) A statement of the manner of holding the election and the manner of voting for or against the proposition.

(f) A statement that the first directors will be elected at that election who will take office if the district is formed.

60544. The legislative body of the city in which the proposed district is located shall comply with any requirements imposed by the Knox-Nisbet Act, Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5.

60545. In the ordinance calling the election, the legislative body of the city shall establish one or more voting precincts for the election within the boundaries of the proposed district, designate the polling place or places, and appoint one inspector, one judge, and one clerk for each precinct.

60546. In all particulars not otherwise provided in this chapter, the election shall be conducted in conformity with the law for the holding of municipal elections in the city.

60547. The vote shall be canvassed by the legislative body of the city on the first Monday which is four or more days after the election. If two-thirds of the voters voting upon the proposition at the election vote for the formation of the district, the legislative body of the city shall declare the district formed.

60548. If less than two-thirds of the votes cast at the election are in favor of forming the district, the legislative body of the city shall declare the proceedings terminated.

60549. If two-thirds of the votes cast at the election are in favor of forming the district, the legislative body of the city shall, by resolution in its minutes, declare the district duly organized under this division, declare the name of the district, declare the purposes for which it is formed, and describe its boundaries.

60550. No informality in any proceeding, including informality in the conduct of any election not substantially affecting adversely the legal rights of any person, as determined by the legislative body of the city, shall invalidate the formation of any district.

60551. The validity of the formation and organization of a district shall not be contested in any proceedings commencing more than 90 days after the date that the formation of the district is completed.

PART 3. INTERNAL ORGANIZATION

CHAPTER 1. BOARD OF DIRECTORS

60600. Each district shall have a board of five, seven or nine directors, as stated in the petition for formation, all of whom shall be voters residing within the boundaries of the proposed district and all of whom shall be elected by area, as provided in Section 60602.

60601. Nominations for directors to be elected at the formation election shall be made by petition of at least 10 percent of the voters from areas as provided in Section 60602, filed with the clerk, or with the secretary in case of succeeding elections, at least 30 days prior to the election.

60602. Each district shall be divided into five, seven, or nine areas. One member of the board shall be elected pursuant to this chapter from each such area. The areas shall be as nearly equal in population as may be feasible. In establishing the boundaries of the area, consideration may be given to the following factors: topography, geography, cohesiveness, contiguity, integrity, compactness of the area, and community of interests of the area.

60603. If a person elected or appointed to the board of directors does not meet the qualifications for office, the office shall be filled as if there was a vacancy in the office.

60604. All vacancies occurring in the office of a director caused by death, resignation, or removal, shall be filled by a special district election.

60605. Each director elected or appointed shall hold office until his or her successor qualifies.

60606. The board may authorize each director to receive compensation, not to exceed fifty-five dollars ($55) for each meeting of the board attended by the director, not to exceed one hundred ten dollars ($110) in any calendar month.

60607. Prior to performing the duties of office, each director shall take and subscribe the official oath before the secretary in succeeding elections, or any officer authorized by law to administer oaths, and shall file it with the secretary.

60608. Within 30 days after the election, and thereafter within 30 days after each general district election, the directors shall meet and organize and may, thereafter, transact any business of the district. The directors first elected upon the formation of the district shall classify themselves into three classes, as nearly equal in number as possible. The terms of office of the first class shall be three years, the terms of office of the second class shall be two years, and the terms of office of the last class shall be one year. Thereafter, the terms of all members shall be three years.

60609. At its organizational meetings, the board shall:

(a) Elect one of its members president, one member vice president, one member secretary, and one member treasurer.

(b) Provide for the time and place of holding its regular meetings.

(c) Provide for the manner of calling special meetings.

60610. The board shall act only by ordinance but shall adopt other rules to govern its proceedings.

60611. A majority of the authorized number of directors of the board shall constitute a quorum for the transaction of business.

60612. No ordinance shall be passed or become effective without the affirmative vote of at least a majority of the directors of the board present at a meeting duly held at which a quorum is present.

60613. Except where action is taken by unanimous vote of all directors present and voting, the ayes and noes shall be taken upon the passage of all ordinances and entered upon the minutes of the board.

60614. The form of the enacting clause of all ordinances passed by the board shall be: "Be it ordained by the board of directors of _____ District, as follows:"

60615. All ordinances shall be signed by the president and attested by the secretary.

60616. All meetings of the board shall be subject to the Ralph M. Brown Act, Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5.

60617. The board may, by resolution, change the name of the district. The change of name shall be effective upon the filing of a certified copy of the resolution with the Secretary of State and recording a certified copy in the office of the clerk.

CHAPTER 2. OTHER OFFICERS AND EMPLOYEES

60630. The board may appoint or employ, fix the compensation of, and prescribe the authorities and duties of officers, employees, attorneys, engineers, and consultants necessary or convenient for the business of the district. Those persons shall hold office at the pleasure of the board and their employment shall not be subject to any civil service provision of the city in which the district is located.

60631. The legislative body of the city and all other officers, boards, or commissions of the city, their assistants, deputies, clerks, and employees shall serve ex officio in their respective capacities for

the proposed district, without additional compensation.

60632. The board may require the persons appointed by the board pursuant to Section 60630 to give a bond to the district conditioned upon the faithful performance of duties.

CHAPTER 3. BOARD AND OFFICER ACTIVITIES

60650. The board is the governing body of the district.

60651. The powers of districts enumerated in this division shall, except as otherwise provided in this division, be exercised by the board.

60652. The provisions of the Political Reform Act of 1974, Title 9 (commencing with Section 81000) shall apply to the elected and appointed officers and employees of the district.

60653. Subject to any requirements imposed by Chapter 7 (commencing with Section 81700) of Title 9, a member of the board may also be a member of the board of directors of a nonprofit corporation organized pursuant to the Nonprofit Corporation Law (commencing with Section 5000) of Division 2 of Title 1 of the Corporations Code, with whom the district contracts pursuant to Section 60752, and the holding of these two positions shall not be incompatible.

PART 4. ELECTIONS

CHAPTER 1. ELECTIONS, GENERALLY

60700. Except as otherwise provided in this division, the Uniform District Election Law, Part 3 (commencing with Section 23500) of Division 14 of the Elections Code, shall govern all elections in the district.

PART 5. PURPOSES AND POWERS

CHAPTER 1. PURPOSES

60725. A district formed under this division may exercise the powers granted by this part for such of the following purposes as have been designated in the petition for formation of the district and for such other of the following purposes as the district shall adopt:

(a) Public recreation by providing parks.

(b) Street lighting.

(c) Pest control and weed abatement.

(d) The opening, widening, extending, straightening, surfacing, and maintaining, in whole or part, of any street in the district, including curbs and gutters, ubject to the consent of the governmental entity which has jurisdiction over that street.

(e) The construction and improvement of bridges, culverts, curbs, gutters, drains, and works incidental to the purposes specified

in subdivision (d), subject to the consent of the governmental entity which has jurisdiction over those improvements.

(f) Protection against land subsidence.

(g) The provision of transportation services.

(h) Maintain administrative facilities, including, but not limited to, shops, storage areas, and corporation yards.

(i) Maintain cable television service.

(j) Provide equipment, tools, and supplies for the various purposes defined in subdivisions (a) to (m), inclusive.

(k) Provide maintenance of buildings, grounds, equipment, and tools necessary for the performance of the various purposes defined in subdivisions (a) to (n), inclusive.

60726. Whenever the board determines, by resolution, that it is feasible, economically sound, and in the public interest for the district to exercise its power for any of the purposes specified in Section 60725, which are not designated in the petition for formation of the district, the board may call a special district election and submit to the voters of the district, or submit to them at the next general district election, the question of whether the district should adopt the additional purpose or purposes. If two-thirds of votes cast at the election upon the proposition are in favor of the adoption of the additional purpose or purposes, then the powers of the district may be exercised for that purpose or purposes.

60727. The district may divest itself of any power in Section 60725 in the same manner as it may acquire a power pursuant to Section 60726.

60728. Where the services regularly provided by the district duplicate services regularly provided by the city in which the district is located, or other services provided by other governmental entities, the district by resolution, may refrain from providing, within the district, any enumerated services which duplicate those services provided by the city or other governmental entities. However, if the board determines that there is a need for extended governmental services and provides the additional funding for such services, the funding of extended or needed services by the district shall not be construed to authorize any reduction or offset of taxes levied by the legislative body of the city for similar services.

CHAPTER 2. POWERS

60740. A district may exercise all of the following powers:

(a) Acquire real or personal property of every kind, within or without the district, by grant, purchase, gift, devise, or lease.

(b) Act as trustee under any trust incidental to the purposes of the district, and receive, hold, administer, and expend funds and property subject to the trust.

(c) Sell, assign, convey, exchange, lease, mortgage, encumber, transfer upon trust, or otherwise dispose of all property, real or personal.

(d) Invest and reinvest funds of the district in the same manner as authorized for general law cities under the Government Code.

(e) Borrow money, contract debts, and issue bonds, notes, and debentures, and secure the payment or performance of its obligations. However, no district shall incur any funded indebtedness, except bonds issued pursuant to Section 60742, which shall in the aggregate exceed 15 percent of the assessed valuation of all real and personal property situated within the district.

(f) Make contracts and to do all other acts necessary or expedient for the administration of the affairs and attainment of the purposes of the district.

60741. A district may sue and be sued in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

60742. A district may authorize, issue, and sell revenue bonds pursuant to the provisions of Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5, and general obligation bonds pursuant to Chapter 4 (commencing with Section 551) of Part 5 of Division 2 of Title 6, if the payment of the principal and the interest is additionally secured by a pledge of all or any part of the revenues of the enterprise, as provided in Article 4 (commencing with Section 53500) of Chapter 3 of Part 1 of Division 2 of Title 5. Such bonds shall be issued to provide funds for the acquisition, construction, improving, or financing of any one or more revenue-producing enterprises for any one or more of the purposes specified in Section 60725, for which the district has been formed, or which it shall have adopted pursuant to Section 60726.

Bonds issued and sold pursuant to this section shall not constitute "funded indebtedness" of the district, as that term is used in subdivision (e) of Section 60740, and the limitation of subdivision (e) of Section 60740 shall not apply to bonds issued pursuant to this section.

In connection with the authorization, issue and sale of bonds pursuant to this section, and so long as any of such bonds shall remain outstanding, a district may exercise, in addition to the powers conferred by this section, any or all of the powers of local agencies provided for in Article 4 (commencing with Section 53500) of Chapter 3 and Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5.

60742.5. A district organized pursuant to this division may, by mutual agreement, utilize any of the financing powers available to the legislative body of the city in which the district is located as alternative methods of financing its needs.

60743. A district may refund or retire any indebtedness that may exist against or be assumed by the district.

60744. A district may make contracts for any and all purposes necessary or convenient for the full exercise of its powers.

60745. A district has perpetual succession.

60746. A district may adopt a seal and alter it at pleasure.

60747. A district may perform any work of construction or

operation under its own superintendence or may contract for the performance of that work by others.

60748. A district may prescribe, revise, and collect rates or other charges for the services and facilities furnished by it, and may pledge, place a charge upon, contribute, or otherwise make available, as security or additional security for the payment of any revenue bonds issued by the district pursuant to Section 60742 any and all revenues received or receivable from any services or facilities furnished by it, including the services or facilities of any revenue-producing enterprise.

A district may provide that charges for any service or facilities shall be collected together with and not separately from the charges for other revenues or facilities rendered by it, and that all charges shall be billed upon the same bill and collected as one item. If all or part of a bill is not paid, the district may discontinue any or all services or facilities for which the bill is rendered.

A district may provide for the collection of charges. Remedies for their collection and enforcement are cumulative and may be pursued alternatively or consecutively, as the district determines.

A district may provide for a basic penalty of not more than 10 percent for nonpayment of the charges within the time and in the manner prescribed by it, and in addition, may provide for a penalty of not exceeding one-half of 1 percent per month for nonpayment of the charges and basic penalty. It may provide for collection of those penalties.

60749. A district may levy a special tax pursuant to Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5.

60750. A district may, by ordinance, adopt regulations governing the use of its facilities and property, including regulations imposing reasonable charges for the use of its facilities and property.

60751. A district has the power to perform all acts necessary to carry out fully the provisions of this division. All expenditures by the district may be made notwithstanding Articles 1 (commencing with Section 1720) and 2 (commencing with Section 1770) of Chapter 1 of Part 7 of Division 2 of the Labor Code.

60752. A district may contract with any city, county, district, public corporation, or any agency of the state, including mutual corporations or nonprofit corporations organized pursuant to the Nonprofit Corporation Law, Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code, to purchase, acquire, or sell, or jointly acquire, jointly construct, jointly operate, or jointly maintain facilities, and to provide services for the residents of the district.

60753. A district may construct any works along, under, or across any street, road, highway, or other property devoted to a public use, subject to the consent of the governing body in charge of that public use.

60754. A district may enter into an agreement with any public or

private corporation whereby any work or improvement may be operated and maintained by the corporation. The power to make such an agreement is conditioned upon a finding by the board that it is in the public interest of the residents of the district.

60755. Except as otherwise provided in this section, all contracts for the construction of any unit of work estimated to cost in excess of five thousand dollars ($5,000) shall be let to the lowest responsible bidder after competitive bidding. The board may reject any and all bids in which case the board may call for new bids. In the event no proposals are received, or where the estimated cost of the work does not exceed the sum of five thousand dollars ($5,000), or where the work consists of emergency work necessary in order to protect life and property, the board of directors may have the work done by force account.

The district may purchase in the open market, without calling for bids, materials and supplies for use in any such work either under contract or by force account. However, materials and supplies for use in any new construction work or improvement, except work referred to in the preceding sentence, may not be purchased if the cost exceeds five thousand dollars ($5,000) without calling for bids and awarding the contract to the lowest responsible bidder.

CHAPTER 3. LIABILITY FOR DAMAGES

60770. All claims and actions against the district or its officers, employees, or agents shall be subject to the provisions of Division 3.6 (commencing with Section 810) of Title 1.

60771. The district may employ counsel to defend any action or proceeding brought against it on account of any injury, taking, damage, or destruction, or to defend, as provided in Part 7 (commencing with Section 995) of Division 3.6 of Title 1, an action or proceeding brought against any of its officers, agents, or employees, and the fees and expenses, including the cost of any bonds and undertakings involved are a lawful charge against the district.

60772. The city in whose jurisdiction the district is located shall incur no liability for the actions of the district.

CHAPTER 4. BONDS

60780. Whenever the board deems it necessary for the district to incur a bonded indebtedness, it shall, by resolution, set forth all of the following:

(a) A declaration of the necessity of the indebtedness.

(b) The purpose for which the proposed debt is to be incurrred.

(c) The amount of the proposed debt.

(d) The time and place for a hearing by the board on the questions:

(1) Will the whole or a portion of the district be benefited by the

accomplishment of the purpose?

(2) If only a portion of the district will be benefited, what portion will be so benefited?

60781. Notice of the hearing shall be given by publication of a copy of the resolution pursuant to Section 6066 in a newspaper of general circulation circulated within the district.

60782. The copy of the resolution published or posted shall be accompanied by a notice subscribed by the secretary that:

(a) The hearing referred to in the resolution will be had at the time and place specified in the resolution.

(b) At that time and place any persons interested, including all persons owning property in the district, will be heard upon the questions stated in the resolution.

60783. At the time and place fixed for the hearing on the resolution declaring the necessity for incurring the bonded indebtedness, or at any time and place to which the hearing is adjourned, the board shall proceed with the hearing.

60784. At the hearing any person interested, including persons owning property within the district, may appear and present any matters material to the questions set forth in the resolution declaring the necessity for incurring the bonded indebtedness.

60785. At the conclusion of the hearing, the board shall, by resolution, determine whether the whole or part of the district will be benefited by the accomplishment of the purpose stated in the resolution.

60786. If the board determines that the whole of the district will not be benefited, the resolution shall also describe the portion of the district which will be benefited, in a manner sufficient for identification, which portion of the district described in the resolution shall thereupon constitute and be known as "Improvement District No. _____ of _____ District."

60787. After the formation of an improvement district within a district pursuant to this chapter, all proceedings for the purpose of a bond election within the improvement district and for the purpose of taxation for the payment of the bonds and interest shall be limited and apply only to the improvement district.

60788. The determination of the board that the whole of the district will be benefited by the bond issue or that only a described portion of the district will be benefited by the bond issue is final and conclusive.

60789. After the board has made its determination pursuant to Section 60785, if it deems it necessary to incur the bonded indebtedness, it shall by resolution state:

(a) That it deems it necessary to incur the bonded indebtedness.

(b) The purpose for which the bonded indebtedness will be incurred.

(c) Either of the following in accordance with its previous determination:

(1) That the whole of the district will be benefited by incurring

the bonded indebtedness.

(2) That a portion of the district will be benefited by incurring the bonded indebtedness, which portion shall be described as it is described in the resolution of the board made pursuant to Section 60785.

(d) The amount of debt to be incurred.

(e) The maximum term the bonds to be issued shall run before maturity, which term shall not exceed 40 years.

(f) The annual rate of interest to be paid, which shall not exceed the rate established pursuant to Article 7 (commencing with Section 53530) of Chapter 3 of Part 1 of Division 2 of Title 5, payable annually or semiannually, or in part annually and in part semiannually.

(g) The proposition to be submitted to the voters, and the method of financing pursuant to Section 60742.5.

(h) The date of the special district election which may be consolidated with a general district election at which the proposition shall be submitted to the voters; the hours between which the polls shall be open; the boundaries of voting precincts within the district or portion of the district benefited by incurring the bonded indebtedness; the location of polling places, and the names of the officers elected to conduct the election in each precinct who shall consist of one judge, one inspector, and two clerks.

60790. In determining the amount of debt to be incurred, the board may include:

(a) All costs and estimated costs incidental to or connected with the acquisition, construction, improving, or financing of the project.

(b) All engineering, inspection, legal, and fiscal agents fees, costs of the bond election and of the issuance of the bonds, and bond interest estimated to accrue during the construction period and for a period of not to exceed 12 months after completion of construction.

60791. The resolution provided for in Section 60789 shall constitute the notice of the special bond election and the resolution shall be published pursuant to Section 6066 in a newspaper of general circulation circulated within the district.

60792. The board shall provide for holding the election in the same manner as provided by law in respect to district elections so far as applicable, except as otherwise provided in this chapter.

60793. Every voter residing within the area designated in the resolution adopted pursuant to Section 60789 may vote on the proposition to authorize the bonds. If the area does not include the entire district, a separate ballot shall be prepared for the vote upon the proposition and only the voters entitled thereto shall be given the ballots.

60794. A majority vote shall be sufficient to authorize the issuance of revenue bonds, and a two-thirds vote shall be required only for the issuance of general obligation bonds.

60795. If the votes cast at the election are in favor of incurring the indebtedness the board may, by resolution, at the time or times it deems proper provide for the following:

(a) The form of the bonds.
(b) The execution of the bonds.
(c) The issuance of any part of the bonds.

60796. The bonds shall be signed by the president and countersigned by the secretary. All signatures on the bonds, except that of the secretary, may be printed, lithographed, or engraved. The coupons shall be signed by the treasurer, whose signature may be printed, lithographed, or engraved. If any officer whose signature appears on the bonds or coupons ceases to be such officer before the delivery of the bonds, his or her signature is as effective as if he or she had remained in office.

60797. All bonds and coupons shall be payable at the office of the treasurer of the city within which the district is located. The board may, by resolution, designate a bank or banks as paying agents for its bonds and coupons in lieu of the office of the treasurer of the city.

60798. An action to determine the validity of bonds may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

60799. The district shall comply with the rules and regulations of the California Debt Advisory Commission created pursuant to Section 8855.

60800. The district may sell the bonds so issued at the times or in the manner the board deems to be in the public interest. All bonds shall be sold on sealed proposals to the highest bidder after advertising for bids by publication of notice of sale pursuant to Section 6061, not less than 10 days prior to the date of sale in a newspaper of general circulation circulated in the district. If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder. If no bids are received, or if the board determines that the bids received are not satisfactory as to price or responsibility of the bidders, the board may reject all bids received, if any, and either readvertise or sell the bonds at private sale. Bonds or notes shall be sold for not less than their par value and accrued interest.

60801. Any bonds issued by any district organized under the provisions of this division have the same force, value, and use as bonds issued by any city or county and shall be exempt from all taxation within the state.

All bonds issued by any district payable from taxes are legal investment for all trust funds, for the funds of all insurance companies, the state school funds, and any funds which may be invested in bonds of cities, counties, cities and counties, school districts, or other districts in the state.

Whenever the board declares, by resolution, that it deems it desirable that any bonds issued or to be issued by the district should be certified by the State Treasurer, as provided in this section, the board of directors shall file a certified copy of the resolution with the State Treasurer and the bonds described in the resolution shall then be subject to investigation and certification by the State Treasurer

pursuant to the District Securities Law, Chapter 1 (commencing with Section 20000) of Division 10 of the Water Code. If, in the opinion of the State Treasurer, the bonds are adequately secured and the revenues and other funds applicable to the payment of the bonds are, or upon the acquisition, construction, or improvement of the enterprise for which the bonds were or are to be issued will be sufficient to pay the principal and interest on the bonds, the State Treasurer shall certify that the bonds are legal investments for all trust funds, for the funds of all insurance companies, state school funds, and any funds, other than funds of savings banks, which may be invested in bonds of cities, counties, cities and counties, school districts, or other districts in the state.

60802. The board may, by resolution, do either, or both, of the following:

(a) Submit to the voters a measure to issue new bonds to refund any or all of the district bonds outstanding.

(b) Submit to the voters of any improvement district of the district a measure to issue new bonds to refund any improvement district bonds outstanding.

60803. The measure may be voted on at any district election or a special election may be called for the purpose.

60804. The procedure upon the election shall be in accordance, so far as applicable, with the procedures upon an original issue of bonds, except that:

(a) No hearing need be held upon the question whether the bond issue will benefit the entire district or only a portion of the district.

(b) The vote of a majority of the voters voting upon the measure is sufficient to authorize the issue of refunding bonds.

60805. The refunding bonds may be issued and sold in the manner and form prescribed for an original issue of bonds.

60806. Refunding bonds may, if the holders of bonds of an original issue and the board so agree, be exchanged for original bonds.

60807. The face value of refunding bonds exchanged for original bonds shall not exceed the face value of the original bonds.

60808. The board may raise money by notes or taxes to pay principal and interest of the refunding bonds in the same manner as prescribed for the payment of bonds of an original issue.

60809. Any bonds issued by the district may be made callable by resolution of the board adopted at or prior to the time of issuing the bonds.

60810. When bonds are made callable, a statement to that effect shall be set forth on the face of the bond.

60811. Callable bonds may be redeemed on any interest payment date prior to their fixed maturity in such amounts and manner and at such prices as the board may prescribe in the resolution provided for in Section 60809.

60812. Notice designating bonds called for redemption shall be published pursuant to Section 6063 in a newspaper of general circulation circulated in the city in which the office of the district is

situated.

60813. The first publication of the redemption notice shall be not less than 30 nor more than 90 days prior to the date fixed for redemption.

60814. If, on the date fixed for redemption, the district has provided funds available for payment of the principal and interest of the bonds called, interest on those bonds ceases.

60815. None of the provisions of this chapter shall apply to any proceedings for the authorization, issue, or sale of revenue bonds by a district pursuant to Section 60742.

CHAPTER 5. IMPROVEMENT DISTRICTS

60820. Improvement districts may be formed in a district in the same manner as improvement districts are formed in irrigation districts. An improvement district shall have the power to acquire, construct, and maintain only those improvements or facilities necessary or required to carry out the purposes of the district which have been authorized pursuant to Chapter 1 (commencing with Section 60725).

60821. The board shall have the same rights, powers, duties, and responsibilities with respect to the formation and government of improvement districts in districts as the board of directors of an irrigation district has with respect to improvement districts in irrigation districts.

60822. Assessments in an improvement district in a district shall be levied, collected, and enforced at the same time and in as nearly in the same manner as practicable as special taxes levied by the district.

60823. Whenever, in the opinion of the board, the public interest or convenience may require, it may order to be done in, under, or upon the whole or any portion of any one or more of the streets or public places of the district, or any property or rights-of-way owned by the district, any work or improvement which the district is authorized to do and provide that the cost of that work or improvement shall be assessed upon the lots and lands fronting on the streets or public places, or upon any district to be assessed, which district need not be composed of lands contiguous to each other. The Improvement Act of 1911, Division 7 (commencing with Section 7000), the Improvement Bond Act of 1915, Division 9 (commencing with Section 8500), and the Municipal Improvement Act of 1913, Division 12 (commencing with Section 10000) of the Streets and Highways Code are applicable to districts.

60824. In the application of the acts listed in Section 60823 to proceedings under this section, the terms used in those acts shall have the following meanings:

(a) "City council" and "council" mean board.

(b) "City" and "municipality" mean district.

(c) "Clerk" and "city clerk" mean secretary.

(d) "Superintendent of streets" and "street superintendent" and "city engineer" mean the general manager of the district or any other person appointed to perform those duties.

(e) "Tax collector" means the county tax collector.

(f) "Treasurer" and "city treasurer" mean the city treasurer or the depositary of the district.

(g) "Right-of-way" means any parcel of land through which a right-of-way has been granted to the district for the purpose of constructing or maintaining work or improvements which the district is authorized to do.

60825. The powers and duties conferred by the acts listed in Section 60823 acts upon boards, officers, and agents of cities shall be exercised by the board, officers, and agents of the district, respectively.

60826. The improvements authorized to be constructed or acquired by this chapter are restricted to those permitted to be constructed or acquired pursuant to Section 60725.

CHAPTER 6. INCLUSION IN IMPROVEMENT DISTRICTS

60830. Territory within a district may be annexed to an improvement district whether or not contiguous to the district if the territory is not part of an improvement district constituted for a similar purpose.

60831. Except as provided in Section 60849, in order to commence the procedure for annexation to an improvement district, the board shall adopt a resolution initiating proceedings for an annexation, which resolution shall do all of the following:

(a) Set forth a description of the exterior boundaries of the territory proposed to be annexed.

(b) State whether the territory proposed to be annexed is inhabited, in that there reside within the territory 12 or more persons who have been registered to vote within that territory for at least 54 days prior to the date of adoption of the resolution, or uninhabited, in that there reside within the territory less than 12 persons who have been registered to vote within that territory for at least 54 days prior to the date of adoption of the resolution.

(c) State the reason or reasons for the proposed annexation.

(d) Set forth any terms or conditions of the proposed annexation.

(e) Fix a time, date, and place of hearing on the proposed annexation, which hearing shall be not less than 15 days nor more than 60 days after the date of adoption of the resolution initiating proceedings.

(f) State that any interested person desiring to make written protest against the annexation shall do so by written communication filed with the secretary not later than the hour set for the hearing. A written protest by a landowner shall contain a description sufficient to identify the land owned by the landowner and a written protest by a voter shall contain the residence of the voter.

60832. The secretary of the district shall give notice of the hearing by doing all of the following:

(a) Publication pursuant to Section 6061 of the resolution initiating the proceedings for annexation once in a newspaper of general circulation circulated within the improvement district.

(b) Posting the resolution initiating the proceedings for annexation on or near the doors of the meeting place of the board of the district or on any official bulletin board customarily used for the purpose of posting of public notices.

(c) Mailing the resolution initiating proceedings for annexation to all landowners owning land within the territory proposed to be annexed, as shown upon the last equalized assessment roll of the county, at the address shown upon the assessment roll, and to all persons and the county, city, or districts which have previously filed a written request for special notice with the secretary.

60833. Publication, posting, and mailing shall be completed at least 15 days prior to the date set for the hearing. Mailed notice shall be sent by first-class mail and deposited, postage prepaid, in the United States mail and shall be deemed to have been given when so deposited.

60834. The hearing on the proposed annexation shall be held by the board upon the date and time specified in the resolution initiating proceedings for the annexation. The hearing may be continued from time to time but not to exceed 60 days from the date specified in the resolution.

60835. At the hearing the board shall hear and receive any oral or written protests, objections, or evidence which shall be made, presented, or filed. Any person who shall have filed a written protest may withdraw the protest at any time prior to the conclusion of the hearing.

60836. Factors to be considered by the board in a proposed annexation shall include all of the following:

(a) Whether the proposed annexation will be for the interest of landowners and present and future inhabitants within the improvement district and within the territory proposed to be annexed to the improvement district.

(b) Any other matters which the board deems material. Except as otherwise provided in this division, the board shall not be required to make any express recitals or findings concerning any of the factors considered by the board.

60837. In any proceedings for the annexation of territory to any improvement district, the board shall have the power and duty to exclude any lands proposed to be annexed which it finds will not be benefited by becoming a part of the improvement district.

For the purpose of completing those proceedings, including the findings provided for by Section 60838, any land so excluded shall no longer be considered a part of the territory to be annexed.

60838. A majority protest shall be deemed to exist and the proposed annexation shall be abandoned if the board finds and

declares by resolution that written protests filed not later than the hour set for the hearing, and not withdrawn prior to the conclusion of the hearing, represent:

(a) In the case of the annexation of inhabited territory either:

(1) More than 50 percent of the assessed valuation of land in the territory.

(2) More than 50 percent of the voting power of voters entitled to vote as a result of residing within such territory.

(b) In the case of the annexation of uninhabited territory, more than 50 percent of the assessed value of land in the territory.

60839. A written protest by a resident-voter shall contain his or her signature and a street number or designation sufficient to enable the place of residence to be readily ascertained. A protest by a landowner shall contain his or her signature and a description of the land owned sufficient to identify the land. A public agency owning land shall be deemed a landowner for the purpose of making a written protest and determining the existence of a majority protest.

60840. The board shall determine the sufficiency of written protests by the methods and manner provided in Sections 60841 to 60845, inclusive.

60841. If the protests are signed by resident-voters, the secretary of the district shall compare the names of the signers on the protest against the voters' register in the office of the county clerk or registrar of voters and ascertain the number of qualified signers appearing upon the protests.

60842. If the protests are signed by landowners, the secretary shall compare the names of the signers on the protests against the names of the persons shown as owners of land on the last equalized assessment roll of the county and ascertain both of the following:

(a) The total number of landowners owning land within the territory which is the subject of the proposed annexation and the total assessed valuation of all land within the territory.

(b) The total number of landowners represented by qualified signers and the total assessed valuation of land owned by qualified signers.

60843. If a protest is signed by a landowner which is a public agency owning land within the territory which is the subject of the proposed annexation, the public agency shall be deemed a landowner for the purpose of the signing and certification of the protest. Any public agency may authorize a protest to be signed for and on its behalf by any duly authorized officer or employee.

60844. In examining any petition signed by a landowner, the secretary of the district shall disregard the signature of any person not shown as owner on the last equalized assessment roll unless prior to certification the secretary is furnished with written evidence, satisfactory to the secretary, that the signer is a legal representative of the owner, is entitled to be shown as the owner of land on the next assessment roll, is a purchaser of land under a recorded written agreement of sale, or is authorized to sign for and on behalf of any

public agency owning land.

60845. If any person signing a protest as a landowner shall appear as owner on the last equalized assessment roll, but be shown thereon as a partner, joint tenant, tenant in common, or as husband or wife, the signature of that person shall be counted as if all the owners shown on the roll had signed.

60846. In any annexation proceeding, if a majority protest shall not have been filed, the board shall, not later than 30 days after the conclusion of the hearing, adopt a resolution either:

(a) Disapproving the proposed annexation.

(b) Ordering the annexation in accordance with Sections 60847 to 60849, inclusive.

60847. The board may order the territory annexed to the improvement district either without election or subject to confirmation by the voters upon the question of the annexation. However, the board shall not order any such annexation without election unless the board either finds that:

(a) In the case of uninhabited territory, that written protests filed and not withdrawn represent less than 25 percent of the number of landowners within the territory owning not more than 25 percent of the assessed value of land in the territory.

(b) In the case of inhabited territory, that written protests filed and not withdrawn represent both:

(1) Less than 25 percent of the number of landowners within the territory, owning not more than 25 percent of the assessed value of land in the territory.

(2) Less than 25 percent of the voting power of voters entitled to vote as a result of residing within the territory.

60848. In any resolution ordering an annexation of territory subject to confirmation by the voters, the board may either provide for an election or elections to be called, held, and conducted upon the question:

(a) Only within the territory ordered to be annexed.

(b) Both within the territory ordered to be annexed and within all of the improvement district.

60849. If all the owners of land within the territory proposed to be annexed have given their written assent to the annexation, the board may, by resolution, order the annexation without notice and hearing by the board, without an election, or without notice and hearing by the board and without an election.

60850. A resolution ordering an annexation or detachment shall describe the exterior boundaries of the territory annexed and shall contain all of the terms and conditions imposed upon the annexation.

60851. After the canvass of the returns of any election or elections on the question of annexation, the board shall declare, by resolution, the total number of votes cast in the election or elections, and the number of votes cast for and against the annexation. The board shall adopt a resolution confirming the order of annexation if a majority of the votes cast upon the questions are in favor of the annexation

either:

(a) At an election called only within the territory ordered to be annexed.

(b) At each election where one election was called within the territory ordered to be annexed and another election within all of the improvement district.

60852. If the proceedings for annexation are terminated, either by majority protest as provided in Section 60838, or by failure of the majority of voters to confirm the order at an election held pursuant to Section 60848, then no new proposal for the same or substantially the same plan of annexation may be filed with the board within one year after the date of adoption of the resolution terminating the proceedings.

60853. After the adoption of a resolution covering the annexation following an election, the secretary shall file a certified copy of the resolution with a map of the territory thus annexed with the county tax collector of the county in which the annexed territory is situated and shall also make such filings as may be required by Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5.

60854. Territory annexed to an improvement district shall be subject to existing bond issues and indebtedness of the improvement district from and after the filing with the county tax collector specified in Section 60853.

CHAPTER 7. ZONES

60860. Zones may be established within a district for any of the following purposes:

(a) Incurring a bonded indebtedness within the zone sufficient to pay the cost of construction of improvements or establishment of services, which improvements and services the district is authorized to provide, where the improvements and services, in the judgment of the board, will not be of districtwide benefit, and levying a special tax within the zone for the payment of principal and interest on the bonds.

(b) Fixing and collecting special rates, special charges, or special taxes for the construction of improvements and for the furnishing of services within a zone, which improvements and services the district is authorized to provide, and applying the receipts from the special rates, special charges, or special taxes to the expense of providing the service, where in the judgment of the board the service is not of districtwide benefit.

(c) Levying special taxes to finance the construction, maintenance, and operation of improvements or the furnishing of services, where in the judgment of the board the improvements or services will not be of districtwide benefit.

60861. Zones may be established within a district by either of the following methods:

(a) A petition for the formation of a zone within a district may be

presented to the board, signed by owners representing at least 25 percent of the total assessed valuation of the real property, including land and improvements, within the proposed zone, as shown by the last equalized assessment role of the county or by not less than 25 percent of the registered voters residing within the proposed zone.

(b) A resolution may be adopted by the board setting forth the matters required by Section 60862. If bonds are proposed to be issued under the authority of Section 60860, the resolution shall state the amount of the proposed indebtedness, the maximum maturity, and the maximum interest rate.

60862. A petition or resolution shall contain all of the following:

(a) The boundaries of the proposed zone.

(b) A general description of the improvement desired or service to be rendered.

(c) An estimate of the cost of the proposed improvement and of incidental expenses in connection with the improvement.

60863. The petition shall be presented at a regular meeting of the board and the board shall set a time for hearing the petition, which time shall be not less than 21 days, nor more than 30 days, after the date of presentation of the petition or adoption of the resolution as provided in Section 60861. Notice of the hearing on the petition or resolution stating when the petition was filed or resolution adopted and specifying the time and place set for the hearing of the petition or resolution and informing interested parties of their right to protest shall be given by the secretary of the board by publication in the district pursuant to Section 6066.

60864. The date set for the hearing shall be at least seven days after the date of the last publication of the notice.

60865. At the time fixed for the hearing, the board shall hear and pass upon the petition and consider any protest and requests for exclusion that have been filed with the secretary before or at the time set for the hearing and its decision on the protests or requests shall be final and conclusive.

60866. If 50 percent or more of the registered voters residing within the territory proposed to be included in the zone, or the owners of 50 percent or more of the value of the land and improvements in the territory proposed to be included in the zone, as shown by the last equalized assessment roll, file written protests against the establishment of the area, the board shall abandon the proposed establishment of the zone.

If a majority protest of the registered voters or of the property owners is against only the furnishing of a specified type of service within the area or the construction of certain improvements, those types of services or those improvements shall be eliminated from the resolution finally establishing the area.

60867. At any time not later than the hour set for the public hearings, any owner of property within the proposed zone may file a written request for exclusion of his or her property, or any portion thereof, from the zone. The request shall state the name of the owner

of the property affected and the street address or other description of the property sufficient to identify it on the last equalized assessment roll. A request for exclusion may be made on behalf of the owner by an agent authorized, in writing, by the owner to act as agent with respect to that property. A request may be made on behalf of a private corporation which is an owner of property by an officer or employee of the corporation without such written authorization.

At the time and place stated in the notice the board shall hold public hearings at which owners who have filed requests for exclusion of their property from the proposed zone may be heard in support of their requests for exclusion.

The board shall make specific findings as to whether or not property as to which a request for exclusion has been filed shall be included within the zone and shall exclude from the zone any of those lands which the board finds will not be benefited by inclusion in the zone.

60869. The hearing may be continued from time to time but shall be completed within 30 days of its commencement. After the hearing, the board may abandon the proposed establishment of the zone or may, after passing upon all protests and requests for exclusion, determine to establish the zone. If the board determines to establish the zone, it shall do so by ordinance and finally determine and establish the boundaries of the zone and designate the improvements to be constructed in the zone or designate the types of services to be performed in the zone.

In establishing the boundaries of the area, the board may allow the exterior boundaries of the area to include less territory than that described in the notice of the hearing, but it may not include any territory not described in the notice of the hearing.

60870. Upon the establishment of such a zone, only the types of services contained in the resolution or the improvements specified in the resolution may be paid for out of special taxes levied within the zone.

60871. Upon the establishment of a zone, bonds may be issued for the purpose of benefiting the zone in accordance with Chapter 4 (commencing with Section 60780).

60872. All powers and duties of the district may be exercised on behalf of or within any zone formed pursuant to this division.

CHAPTER 8. INCLUSION IN ZONES

60880. Territory within a district may be annexed to a zone whether or not contiguous to the zone, if the territory is not part of a zone constituted for a similar purpose.

60881. Except as provided in Section 60899, in order to commence the procedure for annexation to a zone, the board shall adopt a resolution initiating proceedings for annexation, which resolution shall do all of the following:

(a) Set forth a description of the exterior boundaries of the territory proposed to be annexed.

(b) State whether the territory proposed to be annexed is inhabited, in that there reside within the territory 12 or more persons who have been registered to vote within that territory for at least 54 days prior to the date of adoption of the resolution, or uninhabited, in that there reside within that territory less than 12 persons who have been registered to vote within that territory for at least 54 days prior to the date of adoption of the resolution.

(c) State the reason or reasons for the proposed annexation.

(d) Set forth any terms or conditions for the proposed annexation.

(e) Fix a time, date, and place of hearing on the proposed annexation, which hearing shall be not less than 15 days, nor more than 60 days, after the date of adoption of the resolution initiating proceedings.

(f) State that any interested person desiring to make written protest against the annexation shall do so by written communication filed with the secretary not later than the hour set for the hearing. A written protest by a landowner shall contain a description sufficient to identify the land owned by the landowner and a written protest by a voter shall contain the residential address of the voter.

60882. The secretary shall give notice of any such hearing by doing all of the following:

(a) Publication pursuant to Section 6061 of the resolution initiating the proceedings for annexation once in a newspaper of general circulation circulated within the zone.

(b) Posting the resolution initiating proceedings for annexation on or near the doors of the meeting place of the board or on any official bulletin board customarily used for the purpose of posting public notices.

(c) Mailing the resolution initiating proceedings for annexation to all landowners owning land within the territory proposed to be annexed, as shown upon the last equalized assessment roll of the county, at the address shown upon the assessment roll, and to all persons and county, city, or districts which have previously filed a written request for special notice with the secretary.

60883. Publication, posting, and mailing required by Section 60882 shall be completed at least 15 days prior to the date set for the hearing. Mailed notice shall be sent by first-class mail and deposited, postage prepaid, in the United States mail and shall be deemed to have been given when so deposited.

60884. The hearing on the proposed annexation shall be held by the board upon the date and time specified in the resolution initiating proceedings for the annexation. The hearing may be continued from time to time but not to exceed 60 days from the date specified in the resolution.

60885. At the hearing the board shall hear and receive any oral or written protests, objections, or evidence which shall be made, presented, or filed. Any person who shall have filed a written protest

may withdraw the protest at any time prior to the conclusion of the hearing.

60886. Factors to be considered by the board in a proposed annexation shall include all of the following:

(a) Whether the proposed annexation will be for the interest of landowners and present or future inhabitants within the zone and within the territory proposed to be annexed to the zone.

(b) Any other matters which the board deems material. Except as otherwise provided in this division, the board shall not be required to make any express recitals or findings concerning any of the factors considered by the board.

60887. In any proceedings for the annexation of territory to any zone, the board shall have the power and duty to exclude any lands proposed to be annexed which it finds will not be benefited by becoming a part of the zone.

For the purpose of completing those proceedings, including the findings provided for by Section 60888, any land so excluded shall no longer be considered a part of the territory proposed to be annexed.

60888. A majority protest shall be deemed to exist and the proposed annexation shall be abandoned if the board finds and declares by resolution that written protests filed not later than the hour set for the hearing, and not withdrawn prior to the conclusion of the hearing, represent:

(a) In the case of the annexation of inhabited territory either:

(1) More than 50 percent of the assessed value of land in the territory.

(2) More than 50 percent of the voting power of voters entitled to vote as a result of residing within the territory.

(b) In the case of annexation of uninhabited territory, more than 50 percent of the assessed value of land in the territory.

60889. A written protest by a resident-voter shall contain his or her signature and a street and number or designation sufficient to enable the place of residence to be readily ascertained. A protest by a landowner shall contain his or her signature and a description of the land owned sufficient to identify the land. A public agency owning land shall be deemed a landowner for the purpose of making a written protest and determining the existence of a majority protest.

60890. The board shall determine the sufficiency of written protests by the methods and the manner provided in Sections 60891 to 60896, inclusive.

60891. If the protests are signed by resident-voters, the secretary shall compare the names of the signers on the protests against the voters' register in the office of the county clerk or registrar of voters and ascertain the number of qualified signers appearing upon the protests.

60892. If the protests are signed by landowners, the secretary shall compare the names of the signers on the protests against the names of the persons shown as owners of land on the last equalized assessment roll of the county and ascertain both of the following:

(a) The total number of landowners owning land within the territory which is the subject of the proposed annexation and the total assessed valuation of all land within the territory.

(b) The total number of landowners represented by qualified signers and the total assessed valuation of land owned by qualified signers.

60893. If a protest is signed by a landowner which is a public agency owning land within the territory which is the subject of the proposed annexation, the public agency shall be deemed a landowner for the purpose of the signing and certification of the protest. Any public agency may authorize the protest to be signed for and on its behalf by any duly authorized officer or employee.

60894. In examining any petition signed by a landowner, the secretary shall disregard the signature of any person not shown as owner on the last equalized assessment roll unless prior to certification the secretary is furnished with written evidence, satisfactory to the secretary, that the signer is a legal representative of the owner, is entitled to be shown as the owner of land on the next assessment roll, is a purchaser of land under a recorded written agreement of sale, or is authorized to sign for on behalf of any public agency owning land.

60895. If any person signing a protest as a landowner shall appear as owner on the last equalized assessment roll, but be shown thereon as a partner, joint tenant, tenant in common, or as husband or wife, the signature of that person shall be counted as if all the owners shown on the roll had signed.

60896. In any annexation proceeding, if a majority protest shall not have been filed, the board shall, not later than 30 days after the conclusion of the hearing, adopt a resolution either:

(a) Disapproving the proposed annexation.

(b) Ordering the annexation in accordance with Section 60897 to 60899, inclusive.

60897. The board may order the territory annexed to the zone either without election or subject to confirmation by the voters upon the question of the annexation. However, the board shall not order any annexation without election unless the board either finds that:

(a) In the case of uninhabited territory, that written protests filed and not withdrawn represent less than 25 percent of the assessed value of land in the territory.

(b) In the case of inhabited territory, that written protests filed and not withdrawn represent both:

(1) Less than 25 percent of the number of landowners within the territory owning not less than 25 percent of the assessed value of land in the territory.

(2) Less than 25 percent of the voting power of voters entitled to vote as a result of residing within the territory.

60898. In any resolution ordering an annexation of territory subject to confirmation by the voters, the board may either provide for an election to be called, held, and conducted upon the question:

(a) Only within the territory ordered to be annexed.

(b) Both within the territory ordered to be annexed and within all of the zone.

60899. If all the owners of land within the territory proposed to be annexed have given their written assent to the annexation, the board may, by resolution, order the annexation without notice and hearing by the board, without an election, or without notice and hearing by the board and without an election.

60900. A resolution ordering an annexation or detachment shall describe the exterior boundaries of the territory and shall contain all of the terms and conditions imposed upon the annexation.

60901. After the canvass of the returns of any election or elections on the question of the annexation, the board shall declare, by resolution, the total number of votes cast in the election or elections, and the number of votes cast for and against the annexation. The board shall adopt a resolution confirming the order of annexation, if a majority of the votes cast upon the questions are in favor of the annexation either:

(a) At an election called only within the territory ordered to be annexed.

(b) At each election where one election was called within the territory ordered to be annexed and another election within all of the zones.

60902. If the proceedings for annexation are terminated, either by majority protest, as provided in Section 60888, or by failure of the majority of voters to confirm the order at an election held pursuant to Section 60898, then no new proposal for the same or substantially the same plan of annexation may be filed with the board within one year after the date of adoption of the resolution terminating the proceedings.

60903. After the adoption of a resolution ordering the annexation, or a resolution confirming an order of annexation following an election, the secretary shall file a certified copy of the resolution with a map of the territory thus annexed with the county tax collector of the county in which the annexed territory is situated and shall also make such filings as may be required by Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5.

60904. Territory annexed to a zone shall be subject to existing bond issues and indebtedness of the zone from and after the filing with the county tax collector specified in Section 60903.

CHAPTER 9. DEPOSITARY OF DISTRICT MONEY

60910. The board may, by resolution, designate a bank or a savings and loan association as depositary of any or all of its funds. If that depositary is not designated for all of the board's funds, it shall designate which funds are to be deposited with that depositary. The treasurer of the city in which the district is situated shall be the depositary for all funds not so designated.

60911. The treasurer shall do all of the following:

(a) Receive and receipt for all the district's money and place it in the designated depositary to the credit of the district.

(b) Be responsible for ascertaining that the district's depositary is officially bonded for all of the district money held by the depositary in safekeeping and disbursed upon warrants drawn by the treasurer.

60912. The district depositary shall pay when due, out of district money, salaries and all sums payable on outstanding bonds and coupons of the district, and the district depositary shall pay any other sums out of district money, only upon warrants of the treasurer.

60913. The treasurer shall draw warrants to pay written demands made against the district when the demands have been approved by the board and the general manager.

60914. The treasurer shall install and maintain a system of auditing and accounting that shall completely, at all times, show the financial condition of the district. The treasurer shall report to the board, in writing, on the first day of each month with respect to each of the following:

(a) The amount of money in the several accounts under the treasurer's control for the district, indicating depositary and the terms of the deposit.

(b) The amount of receipts since the treasurer's last report.

(c) The amount paid out since the treasurer's last report.

(d) The amount of money invested and the terms of investments.

(e) The purpose for which funds are held and invested.

(f) The report shall be signed by the treasurer and filed with the secretary.

60915. The board shall approve reasonable charges made against the district, as determined by the board, for all of the following services:

(a) The district depositary as custodians of the district's money.

(b) The district depositary for paying warrants drawn by the treasurer and approved against the district.

(c) The district depositary for paying bonds and coupons of the district.

(d) The official bond of the district's depositary and treasurer.

60916. Notwithstanding the provisions of Sections 60910 to 60915, inclusive, the board may, in a resolution relating to the issuance of revenue bonds, designate a trustee, fiscal agent, or depositary to receive the proceeds of sale of the revenue bonds or all or a part of any revenue received or to be received by the district from any enterprise of the district or from any services or facilities furnished or to be furnished the district, all as set forth in the resolution. In that event, Sections 60910 to 60915, inclusive, shall not apply to the proceeds of sale of the bonds or to the revenues, and the trustee, fiscal agent, or depositary so designated shall receive, hold, and disburse the proceeds of sale of the bonds or the revenues upon such terms and conditions as shall be provided in the resolution, which shall prescribe the duties and powers of the trustee, fiscal agent, or

depositary. Any such trustee, fiscal agent, or depositary shall be a bank or trust company qualified to do business in the state.

60917. A bank or savings and loan association may act as a depositary, paying agent, or fiscal agent for the holding of district funds, even though a member of the board of the district whose funds are on deposit in the bank or savings and loan association, is an officer, employee, or stockholder of the bank or savings and loan association, or of a holding company that owns any of the stock of the bank or savings and loan association.

CHAPTER 10. COOPERATION WITH THE UNITED STATES

60920. A district may cooperate and contract with the United States.

CHAPTER 11. SHORT-TERM BORROWING

60930. A district may borrow money and incur indebtedness as provided in this chapter by action of the board and without the necessity of calling and holding an election in the district.

60931. Indebtedness may be incurred pursuant to this chapter for any purpose for which the district is authorized to expend funds, including provisions for payment of current expenses of the district and for the funding or refunding of any outstanding warrants issued for the payment of current expenses.

60932. Indebtedness incurred under this chapter shall be evidenced by notes of the district, payable in not to exceed five years from their date, and bearing interest at a rate not to exceed the rate specified in Section 53531, payable annually or semiannually.

60933. The notes shall be issued in the name of the district after adoption by a two-thirds vote of all of the members of the board then in office on a resolution setting forth the form of the note, the maturity date or dates of the note, and the manner of execution on the note.

60934. The board may, in its resolution authorizing the issuance of notes, provide that the notes shall be subject to call and redemption prior to maturity, at the option of the district, at such price or prices as may be fixed in the resolution, not exceeding a premium of 6 percent of the par value of the note so subject to redemption. The resolution shall fix the method of giving notice of redemption to the holders of notes to be redeemed and the price or prices at which the note shall be subject to redemption. Notes so subject to call and redemption prior to maturity shall contain a recital to that effect on their face and no note shall be subject to call and redemption prior to its fixed maturity date unless it contains that recital.

60935. Notes issued under this chapter shall be offered for public sale upon notice inviting sealed bids. Notice shall be given by publication pursuant to Section 6061 in a newspaper of general

circulation circulated within the district. The sale shall not be held before 10 days after the publication. The board may reject all bids received on public sale and either readvertise or sell the notes at private sale, but no sale at private sale shall be made for less than the par value of the note and accrued interest on the note.

60936. Notes shall not be issued under this chapter by any district in any one fiscal year in excess of an amount of 1 percent of the assessed valuation of the taxable property in the district, or if the assessed valuation is not obtainable, 1 percent of the county auditor's estimate of the assessed valuation of the taxable property in the district evidenced by the certificate of the county auditor.

60937. The district may issue general obligation notes pursuant to Article 7.6 (commencing with Section 53850) of Chapter 4 of Part 1 of Division 2 of Title 5, payable out of the taxes, income, revenue, cash receipts, and other moneys of the district attributable to the fiscal year in which the indebtedness is incurred and legally available for payment of the indebtedness. The amount of notes and interest thereon to be incurred shall not exceed 25 percent of the amount of moneys available for payment of the notes as estimated by the treasurer. In addition, all of the following provisions shall apply to those notes:

(a) The notes shall be issued in negotiable form, payable to bearers, without coupons, and may be registrable.

(b) The notes are not subject to call prior to maturity.

(c) The notes shall be issued in denominations of five thousand dollars ($5,000).

(d) The interest rate on the notes shall not exceed the rate established pursuant to Article 7 (commencing with Section 53530) of Chapter 3 of Part 1 of Division 2 of Title 5.

PART 6. TAXES, ASSESSMENTS, AND FEES AND CHARGES

CHAPTER 1. GENERAL PROVISIONS

60950. The board shall state the purposes for which special taxes levied pursuant to this division are necessary, and shall fix, by ordinance, the amount of money necessary to be raised by taxation. If the amount to be raised at any one time by taxation for a purpose other than debt service or indebtedness exceeds the sum of fifty thousand dollars ($50,000), the ordinance shall not become effective until 30 days after its final passage.

60951. Any taxes so levied shall be collected by the district and may be collected on a monthly, semiannual, or annual basis. The taxes shall be subject to the same requirements and penalties provided by law for the settlement of other taxes.

60952. All taxes levied under the provisions of this division shall be a lien on the real property of the person against whom they are levied and the enforcement of the collection of those taxes may be had in the same manner and by the same means as is provided by

law for the enforcement of liens for state and county taxes. All the provisions of law relating to the enforcement of liens for state and county taxes are hereby incorporated by reference and made a part of this division.

60953. Whenever any real property situated in any district has been sold for taxes and has been redeemed, the money paid for the redemption shall be apportioned and paid by the county treasurer receiving the same to the district in the proportion which the tax due to the district bears to the total tax for which the property was sold.

CHAPTER 2. ASSESSMENTS

60960. The board may, by resolution, levy an assessment on each parcel of real property, including land and improvements within the district, or any zone or improvement district thereof, on the basis of estimated benefits, to carry out the objects and purposes of the district which cannot be provided for out of the revenues of the district, including funds for the payment of current common expenses and for the creation of reserves for the payment of future common expenses and funds for improvements, replacements, and additions. Benefit assessments shall be levied in proportion to the percentage interests of property owners in the district. The board shall not impose an assessment upon a federal or state governmental agency or another local agency. If the benefit assessments are collected by the county on behalf of the district, the county may deduct its reasonable costs incurred for that service before remittal of the balance to the district.

60961. The board may collect benefit assessments on a monthly, semiannual, or annual basis from property owners in the district.

60962. Whenever the board levies an assessment pursuant to this chapter, the board shall first have a written report, containing a description of each parcel and the amount of the assessment for each parcel prepared and recorded with the office of the county recorder of the county in which the real property, including land and improvements, is situated, and filed with the secretary. The secretary shall fix a time, date, and place for a hearing upon the report. Prior to the date of the hearing, a notice of hearing shall be published pursuant to Section 6063 in a newspaper of general circulation circulated within the district and at least three notices shall be posted in public places within the district.

At the hearing, the board shall hear and consider all protests. At the conclusion of the hearing, the board may adopt, revise, change, reduce, or modify any assessment and shall make its determination upon each assessment described in the report and thereafter, by resolution, shall confirm the assessments. A copy of the resolution of confirmation shall be certified by the secretary and shall be recorded with the county recorder of the county in which the district is located.

60963. Upon recordation of the confirmed assessment, pursuant

to Section 60962, the assessment shall be levied and collected at the same time and in the same manner as the general or special tax levy.

60964. The board may thereafter, in each year, prior to the time of fixing the district tax rate, estimate the cost of providing the services in carrying out the purposes of the district, or any zone or improvement district within the district, during the ensuing year. The board may, in addition to all other taxes, levy for the purposes set forth in Part 5 (commencing with Section 60725) an assessment each year upon the real property, including land and improvements in the district or any zone or improvement district thereof, sufficient to pay that expense.

CHAPTER 3. FEES AND CHARGES

60970. The board may, by resolution, impose fees or charges which do not exceed the estimated reasonable cost of providing the service for which the fee or charge is imposed.

60971. Whenever the board sets fees and charges pursuant to this chapter the board shall first have a written report containing a description of the fees or charges prepared by the treasurer and filed with the secretary. The secretary shall fix a time, date, and place for a hearing upon the report. Prior to the date of the hearing, a notice of hearing shall be published pursuant to Section 6063 in a newspaper of general circulation circulated within the district, and at least three notices shall be posted in public places within the district.

At the hearing, the board shall hear and consider all protests. At the conclusion of the hearing, the board may adopt, revise, change, reduce, or modify any fees or charges described in the report and thereafter, by resolution, shall confirm the fees and charges. A copy of the resolution shall be certified by the secretary, and recorded with the city clerk of the city in which the district is located. If the district is formed pursuant to this division, the city shall be reimbursed for other expenses incurred in behalf of the district, including expense of holding the district formation election.

SEC. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances of the retirement community commonly known as Rossmoor in the City of Walnut Creek.

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

CHAPTER 1497

An act to amend Section 18930 of the Government Code, relating to state civil service.

[Approved by Governor September 27, 1984. Filed with Secretary of State September 27, 1984.]

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

SECTION 1. Section 18930 of the Government Code is amended to read:

18930. Examinations for the establishment of eligible lists shall be competitive and of such character as fairly to test and determine the qualifications, fitness and ability of competitors actually to perform the duties of the class of position for which they seek appointment.

Examinations for managerial positions, except for career executive assignments as defined in Section 18547, peace officers defined in subdivision (a) of Section 830.2 of the Penal Code, and managerial positions of the Department of Forestry in the classes of State Forest Ranger IV and Assistant Deputy State Forester, shall be held on an open basis unless the appointing authority determines otherwise. "Managerial position" means those positions having the duties which are defined under "managerial employees" in subdivision (e) of Section 3513. When an open examination is administered for a noncareer executive assignment managerial position, the names of the applicants who pass the examination with a passing score shall be placed on one list and ranked in the relative order of the examination score received.

Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skill, or any combination of these; and any investigation of character, personality, education and experience and any tests of intelligence, capacity, technical knowledge, manual skill, or physical fitness which the board deems are appropriate, may be employed.

CHAPTER 1498

An act to amend Sections 454 and 3626.5 of, to add Sections 452.2, 454.1, 1068.2, 3542.2, 3661.1, and 3666.1 to, and to repeal and add Section 452.1 to, the Public Utilities Code, relating to carriers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1984 Filed with Secretary of State September 27, 1984.]

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

SECTION 1. Section 452.1 of the Public Utilities Code is repealed.

SEC. 2. Section 452.1 is added to the Public Utilities Code, to read:

452.1. Whenever a cement carrier requests authority to establish a rate less than the maximum reasonable rate, the commission shall, in addition to the requirements of Section 452, require a showing that the rate is fully compensatory based solely upon the cost of transportation from origin to destination and return and the projected revenue to be derived from the requested rate.

If the commission finds after public hearing, when a hearing is requested, that the proposed rate meets the requirements of Section 452 and this section, it shall authorize the establishment of the proposed rate subject to conditions the public interest may require.

SEC. 3. Section 452.2 is added to the Public Utilities Code, to read:

452.2. (a) The establishment of a less-than-maximum reasonable rate pursuant to Section 452.1 shall be for a period of not more than one year. In addition to the requirements of Section 452.1, an applicant requesting renewal shall make a showing to the satisfaction of the commission, supported by operating results and cost data developed from the transportation to which the less-than-maximum reasonable rate was applicable, that the renewal at less than the maximum reasonable rate is justified.

(b) In lieu of requiring an annual showing pursuant to subdivision (a), the commission may establish an index directly related to the cost of transportation of cement which shall serve as the basis for adjustment and renewal of rates for the transportation of cement under this section.

SEC. 4. Section 454 of the Public Utilities Code is amended to read:

454. (a) Except as provided in Section 454.1, no public utility shall raise any rate or so alter any classification, contract, practice, or rule as to result in any increase in any rate, except upon a showing before the commission and a finding by the commission that the increase is justified. However, upon a showing by a public utility before the commission after a public hearing and a finding by the commission that it has invested in projects designed to generate or produce energy from renewable resources, including, but not limited to, solar energy, geothermal energy, wind sources, hydroelectric energy at existing dams and hydroelectric energy at new dams subject to Resources Agency review of the environmental impacts of the proposed project and determination that the proposed project is environmentally acceptable, or that it has invested in other systems capable of meeting the then applicable environmental pollution standards, in either case the capital costs of which, when added to the operating and maintenance costs, shall result in a lower

cost per unit of energy generated or produced over the life of the system than existing systems utilizing atomic energy, fossil fuels, or natural gas, which projects or systems are capable of or, in fact, are generating energy for commercial purposes, the commission may allow a return on the investment established by adding an increment of from one-half of 1 percent to 1 percent to the rate of return permitted on the utility's other investment. The commission may, in its discretion, also allow the higher rate of return on investment by a public utility in experimental projects which it determines, after public hearing, to be reasonably designed to improve or perfect technology to generate or produce energy from renewable resources, or to more efficiently utilize other resources for the generation of energy in a manner which will decrease the environmental pollution per unit of energy generated or produced and lower the cost per unit of energy to the utility's consumers. Whenever any electrical, gas, heat, telephone, water, or sewer system corporation files an application to increase any rate of charge, other than an increase reflecting and passing through to customers only increased costs to the corporation, for the services or commodities furnished by it, the corporation shall furnish to its customers affected by the proposed increase notice of its application to the commission for approval of the increase. The corporation may include the notice with the regular bill for charges transmitted to the customers within 45 days if the corporation operates on a 30-day billing cycle, or within 75 days if the corporation operates on a 60-day billing cycle. The notice shall state the amount of the proposed increase expressed in both dollar and percentage terms, a brief statement of the reasons the increase is required or sought, and the mailing address of the commission to which any customer inquiries relative to the proposed increase, including a request by the customer to receive notice of the date, time, and place of any hearing on the application, may be directed.

(b) The commission may adopt rules it considers reasonable and proper for each class of public utility providing for the nature of the showing required to be made in support of proposed increases, the form and manner of the presentation of the showing, and the procedure to be followed in the consideration thereof. Rules applicable to common carriers may provide for the publication and filing of any proposed increase together with a written showing in support thereof, giving notice of the filing and showing in support thereof to the public, granting an opportunity for protests thereto, and to the consideration of, and action on, the showing and any protests filed thereto by the commission, with or without hearing. However, the proposed increase does not become effective until it has been approved by the commission.

(c) The commission shall permit individual residential public utility customers affected by a proposed rate increase to testify at any hearing on the proposed increase, except that the presiding officer need not allow repetitive or irrevelant testimony and may conduct

the hearing in an efficient manner.

SEC. 5. Section 454.1 is added to the Public Utilities Code, to read:

454.1. The commission shall adopt rules and regulations under which cement carriers may file for increases in rates and charges. In adopting these rules and regulations, the commission shall follow the following procedures:

(a) Cement carriers may publish on 45 days' notice, subject to subdivisions (b) and (e), just, reasonable, and nondiscriminatory rates, classifications, contracts, practices, or rules resulting in a rate increase. However, the commission may, upon a showing of good cause, allow changes without requiring the 45 days' notice.

(b) If no protest is received by the commission within the first 30 days of the 45-day notice period required by subdivision (a), or if the commission does not within the 45-day period determine, on its own initiative, to investigate the validity of the proposed rates, the commission shall publish notification of the increase in its public agenda and shall thereafter issue a decision at the next meeting of the commission finding the increase to be justified and granting the increase as requested.

(c) Once an increased rate has been found justified by the commission, other cement carriers may increase their rates and charges to the same level for the same transportation by publication of the increase in their tariffs upon 30 days' notice to the commission and to the general public, unless a protest is filed pursuant to subdivision (e).

(d) In addition to the procedure provided in subdivisions (a), (b), and (c), the commission may establish an index directly related to the cost of transportation of cement which shall serve as the basis for annual adjustment of rates for the transportation of cement under this section. Whenever the commission fixes the annual level of this index, it shall, within 45 days thereafter, order adjustment of all cement carrier rates by the equivalent percentage of the change in the index.

(e) Whenever during the first 30 days of the 45-day notice period a protest is filed with the commission alleging a proposed rate, classification, contract, practice, rule, or index resulting in a rate increase is not just and reasonable, or if the commission on its own motion determines to investigate the validity of the proposed rate, classification, contract, practice, rule, or index resulting in a rate increase, the burden of proof that the rate, classification, contract, practice, rule, or index resulting in a rate increase is justified is on the applicant. All rates, classifications, contracts, practices, and rules in effect on April 1, 1982, or established pursuant to this section are prima facie just, reasonable, and nondiscriminatory rates, except that any person may file a protest with the commission, and shall bear the burden of proof, that the rate, classification, contract, practice, rule, or index is not justified.

SEC. 6. Section 1068.2 is added to the Public Utilities Code, to

read:

1068.2. No carrier shall operate for compensation a motor vehicle loaded substantially to capacity with portland or similar cement, either alone or in combination with lime or powdered limestone, in bulk or in packages, whether or not under contract or other arrangement with a shipper or another carrier, over any highway, unless there is in force either a cement carrier certificate or a cement contract carrier permit to serve the points involved in the transportation.

SEC. 7. Section 3542.2 is added to the Public Utilities Code, to read:

3542.2. No carrier shall operate for compensation a motor vehicle loaded substantially to capacity with portland or similar cement, either alone or in combination with lime or powdered limestone, in bulk or in packages, whether or not under contract or other arrangement with a shipper or another carrier, over any highway, unless there is in force either a cement carrier certificate or a cement contract carrier permit to serve the points involved in the transportation.

SEC. 8. Section 3626.5 of the Public Utilities Code is amended to read:

3626.5. (a) Cement contract carriers shall have written contracts, a copy of which shall be on file with the commission, before performance under the contract commences. The contract shall be a bilateral contract including all of the following essential terms:

(1) Parties.

(2) Time of performance.

(3) Subject matter.

(4) Compensation.

(b) Whenever freight charges are prepaid by a consignor, the compensation shall not exceed the upper limits of the zone of reasonableness as set forth in Section 3666.1.

SEC. 9. Section 3661.1 is added to the Public Utilities Code, to read:

3661.1. The commission shall not approve any rate for the transportation of cement by a cement contract carrier which does not meet the requirements of Section 3666.1.

SEC. 10. Section 3666.1 is added to the Public Utilities Code, to read:

3666.1. (a) A cement contract carrier may file with the commission for its approval, on five days' notice, any rate which is within the zone of reasonableness. For purposes of this section, the zone of reasonableness is as follows:

(1) Until the commission establishes a lowest common carrier rate pursuant to Section 452.1, the lower limit of the zone of reasonableness is the cement carrier rate in effect on April 1, 1982. After the commission establishes the lowest common carrier rate pursuant to Section 452.1, the lower limit of the zone of reasonableness shall be that rate until further adjusted.

(2) The upper limit of the zone of reasonableness is the highest cement carrier rate established pursuant to Section 454.1 for the transportation which is subject to the cement contract carrier's filing.

(b) If a cement contract carrier proposes to perform any transportation or accessorial service at a rate other than within the zone of reasonableness, the carrier shall file therefor on 45 days' notice, and the commission shall require the carrier to show whichever of the following applies:

(1) If the rate is less than the zone of reasonableness, that the proposed rate is fully compensatory based solely upon the cost of transportation from origin to destination and return and the projected revenue to be derived from the requested rate.

(2) If the rate is higher than the zone of reasonableness, that the proposed rate is reasonable, proper, and justified by transportation conditions.

On any rate authorized outside the zone of reasonableness, the commission shall attach any condition that the public interest requires.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to assure that safety considerations become a requirement as soon as possible for all highway carriers transporting cement, it is necessary that this act take effect immediately.

CHAPTER 1499

An act relating to the Northwestern Los Angeles Resource Conservation District.

[Approved by Governor September 27, 1984. Filed with Secretary of State September 27, 1984.]

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

SECTION 1. Notwithstanding Section 9491 of the Public Resources Code or any other provision of law, the Northwestern Los Angeles Resource Conservation District is hereby abolished as of the effective date of this act. The Board of Supervisors of Los Angeles County is the successor agency and shall wind up the affairs of the district, distribute and dispose of its assets, and pay its obligations, including the costs and expenses of dissolution. The County of Los Angeles is liable for obligations of the district incurred prior to January 1, 1985, only to the extent of the assets of the district on that date, and only for those obligations incurred after that date which are approved by the Los Angeles County Auditor/Controller. Any remaining assets of the district shall be distributed by the board of

supervisors to the Topanga-Las Virgines Resource Conservation District, the Antelope Valley Resource Conservation District, the County of Los Angeles, or any or all of them, to be used for conservation purposes. The board of supervisors may, in accordance with Article 1 (commencing with Section 9151) of Chapter 3 of Division 9 of the Public Resources Code, allocate any of the lands comprising the Northwestern Los Angeles Resource Conservation District to become a part of the Topanga-Las Virgines Resource Conservation District, the Antelope Valley Resource Conservation District, or both those districts. The board of supervisors shall allocate any of those lands requested by the Topanga-Los Virgines Resource Conservation District or the Antelope Valley Resource Conservation District to the requesting district, if the request is made within one year after the County of Los Angeles gives notice of the availability of the lands.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1500

An act to amend Section 30607.2 of the Public Resources Code, relating to coastal resources.

[Approved by Governor September 27, 1984. Filed with Secretary of State September 27, 1984.]

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

SECTION 1. Section 30607.2 of the Public Resources Code is amended to read:

30607.2. (a) Conditions requiring housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, which were incorporated into a coastal development permit issued prior to January 1, 1982, may, at the request of the permittee, be amended or modified by the commission or by a local government having the authority to issue coastal development permits. In approving those amendments or modifications, only those conditions and requirements authorized by Section 65590 of the Government Code may be imposed on the permittee.

(b) Any person who, prior to January 1, 1982, has been issued a coastal development permit which contains requirements for low- and moderate-income housing but who, prior to January 1, 1982, has not performed substantial work on the development site (such as

grading, installation of streets, sewers, or utilities, or construction of major buildings) may elect to proceed under either of the following options:

(1) To proceed pursuant to all of the requirements of the coastal development permit, in which event the provisions of subdivision (a) shall apply to any subsequent request to amend or alter the coastal development permit in regard to housing requirements.

(2) To proceed without complying with the housing requirements contained in the coastal development permit, in which event the housing requirements for the development shall be governed by Section 65590 of the Government Code.

(c) No new coastal development permit or amendment to any existing permit for a sewer project shall be denied, restricted, or conditioned by the commission in order to implement housing policies or programs.

(d) Nothing in this section authorizes or requires the modification of or amendment to any terms or conditions of any previously issued coastal development permit which guarantees housing opportunities for persons and families of low or moderate income where the term or condition has been met through an agreement executed and recorded on or before January 1, 1982, between an applicant and the commission. For previously approved or issued permits which involve new construction of less than 10 residential units, an executed and recorded agreement guaranteeing housing opportunities for persons or families of low or moderate income, which has not been implemented by the transfer of an interest in real property or payment of a fee to a public agency or nonprofit association for the purpose of providing these housing opportunities, shall be voided if the applicant records the notice provided by the executive director of the commission. Further, nothing in this section impairs the commission's authority to deny, restrict, or condition new permits or amendments to existing permits based on any requirement of this division.

(e) Nothing in this section authorizes or requires the modification of or amendment to any terms or conditions in Permit #P-80-419 issued by the commission with respect to the reservation or administration of sewer capacity for affordable housing in the San Mateo County local coastal program.

CHAPTER 1501

An act relating to the California Bicentennial Commission on the United States Constitution, and making an appropriation therefor.

[Approved by Governor September 27, 1984. Filed with Secretary of State September 27, 1984.]

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

SECTION 1. In commemorating the Bicentennial of the United States Constitution, the Legislature makes the following findings:

(a) Nearly 200 years ago, the people of the United States did ordain, establish, and eloquently manifest their ideals in the Constitution of the United States "... in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty ..." to themselves and their posterity.

(b) The United States Constitution has stood soundly through calamity and chaos, as well as through peace and prosperity, from the birth of our nation with just 13 states and 3,000,000 people to the present, with 50 states and over 230,000,000 people.

(c) Despite the fact that the United States Constitution is a remarkably concise document, and despite a civil war, two world wars, a great depression, and unprecedented industrial and technological change, the United States Constitution has been amended infrequently.

(d) The United States Constitution established the federal system of government, balancing power between the national and state levels, and the system of checks and balances embodied in the separation of powers among the executive, legislative, and judicial branches of government.

(e) The United States Constitution and the Bill of Rights demonstrate that it is possible to achieve strong and viable union without sacrifice of individual liberty.

(f) The United States Constitution has been the model for the governments of Australia, Canada, Mexico, New Zealand, Switzerland, West Germany, Yugoslavia, and 20 other nation states.

SEC. 2. (a) There is hereby created a five-member California Bicentennial Commission on the United States Constitution. The five members of the commission shall be appointed by March 1, 1985, by the authorities set forth in this subdivision.

(1) The Governor shall appoint three members.

(2) The Speaker of the Assembly shall appoint one member from a nonprofit organization dedicated to citizenship education.

(3) The Senate Rules Committee shall appoint one member who shall possess extensive experience in teaching American history or political institutions.

(b) The Superintendent of Public Instruction and the

Chairpersons of the Senate and Assembly Education Committees shall serve on the commission in ex officio capacity.

(c) Board members shall be reimbursed for expenses incurred in the performance of the duties of the commission.

SEC. 3. The basic object of the commission shall be to promote observances of the bicentennial of the United States Constitution and the Bill of Rights in California. The observation shall begin with events leading to the first major bicentennial celebration, at the convening of the Constitutional Convention, and extend to include the bicentennial commemoration of the ratification of the Bill of Rights. To this end, the commission shall develop, propose, coordinate, administer, sponsor, and fund educational projects, events, competitions, and multimedia instructional materials on current and historical topics closely related to the United States Constitution. These topics shall include, but shall not be limited to, the formation of the Constitution, the protection of liberties, the separation of powers, the federal system of government, and the evolution of the American political system.

SEC. 4. (a) The commission shall submit a report to the Legislature on or before August 30, 1985. That report shall include, but not be limited to, all of the following:

(1) A calendar of events commencing on January 1, 1987, and extending through July 1, 1992.

(2) The commission's proposals for projects and instructional materials.

(3) A request for additional funding.

(b) In all endeavors, the commission shall place a significant premium on projects which encourage maximal public attention, interest, and participation. The commission shall also encourage projects aimed at the diverse communities within our pluralistic society.

(c) The commission shall encourage public and private partnership in its endeavors.

(d) The commission shall appoint an executive director and all necessary staff.

(e) The commission shall cease to exist or operate on July 1, 1992.

SEC. 5. The commission shall develop and promote the development of potential projects, events, and instructional materials. The commission shall devise plans for the widespread dissemination of these materials to schools, community organizations, and the general public.

SEC. 6. This act shall be operative until July 1, 1992, and as of that date is repealed.

SEC. 7. The sum of fifty thousand dollars ($50,000) is hereby appropriated from the General Fund to the California Bicentennial Commission on the United States Constitution for purposes of this act, provided that the commission expends the appropriated funds on the basis of a one dollar ($1) expenditure for each one dollar ($1) of private funds received by the commission.

CHAPTER 1502

An act to add Section 22236 to the Education Code, and to add Section 20139.5 to the Government Code, relating to public retirement, and making an appropriation therefor.

[Approved by Governor September 27, 1984. Filed with Secretary of State September 27, 1984.]

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

SECTION 1. Section 22236 is added to the Education Code, to read:

22236. (a) The board shall provide the Legislature with an analysis of the asset and liability implications of each bill which would affect the investment strategy of the system, the funding of the system, or the benefit structure of the system. The analysis shall include an explanation of the methodology employed and the assumptions used in its preparation. Neither fiscal committee of the Legislature shall hear any such bill until the analysis has been provided to the committee.

(b) There is hereby continuously appropriated, without regard to fiscal years, from the fund, an amount sufficient to pay all costs arising from subdivision (a), but not to exceed fifty thousand dollars ($50,000) in any one fiscal year.

SEC. 2. Section 20139.5 is added to the Government Code, to read:

20139.5. (a) The board shall provide the Legislature with an analysis of the asset and liability implications of each bill which would affect the investment strategy of the system, the funding of the system, or the benefit structure of the system. The analysis shall include an explanation of the methodology employed and the assumptions used in its preparation. Neither fiscal committee of the Legislature shall hear any such bill until the analysis has been provided to the committee.

(b) There is hereby continuously appropriated, without regard to fiscal years, from the fund, an amount sufficient to pay all costs arising from subdivision (a), but not to exceed fifty thousand dollars ($50,000) in any one fiscal year.

CHAPTER 1503

An act to add Sections 22218.6, 22218.7, and 22225.75 to the Education Code, and to add Sections 7511, 20138, 20139, and 20205.85 to the Government Code relating to public employee retirement, and making an appropriation therefor.

[Approved by Governor September 27, 1984. Filed with Secretary of State September 27, 1984.]

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

SECTION 1. Section 22218.6 is added to the Education Code, to read:

22218.6. The board shall submit an annual report to the Legislature, which report shall include:

(a) A copy of the annual audit performed pursuant to Section 22220.

(b) A review by a consultant, a summary of any changes in actuarial assumptions from the previous year, a review of the system's asset mix strategy, a market review of the economic and financial environment in which investments were made, and a summary of the system's general investment strategy.

(c) A description of the investments of the system, including the concentration of stocks and bonds, at cost and market value, including dividends and coupons, and a summary of major changes that occurred since the previous year.

(d) The following information regarding the rate of return of the system by asset type:

(1) Time-weighted return on a five-year, three-year, two-year, and one-year basis.

(2) Dollar-weighted return on a five-year, three-year, two-year, and one-year basis.

(3) Portfolio return comparisons which compare investment returns with an alternative theoretical portfolio of comparable funds, universes, and indexes.

(4) Returns as credited to employer accounts.

(5) Returns as reported in annual reports.

(6) Returns as reported by the Controller.

(e) A transaction summary which shall adequately review the system's custodial relationship and daily cash management, purchases, sales, turnover, private placements, soft dollar purchases, and transaction costs such as commissions, dealer spreads and accommodations.

(f) The system shall report on the use of outside investment advisers and managers and any participation in corporate annual meetings and shareholder voting.

(g) A statement of actuarial gains and losses, including the components of the employer contribution rate, and the sensitivity of the statement information to changes in the economic or noneconomic actuarial assumptions.

(h) A discussion of the system portfolio of the system containing the following information:

(1) Concentration, current holdings at cost and market value, risk characteristics (R-squared, Beta, standard error), fundamentals (P/E, dividend yield, measures of growth, size, earnings quality,

debt/equity) of equities.

(2) Concentration, current holdings at cost and market value, maturity, duration, quality, coupon, and current yield of fixed income instruments.

(3) Current holdings at cost and market value of real estate equities.

(4) Current holdings at cost and market value of mortgages.

(5) Securities lending activity.

(6) Options and forward commitments.

(7) Cash and cash equivalents.

(i) Include a performance review of asset allocation, of equities due to market timing, sector selection, stock selection and trading, of fixed income instruments due to interest rate anticipation skills, credit analysis, sector trading and swapping and of value added over indexing (alpha).

(j) A review of the system's custodial relationship and daily cash management and a summary of the system's investment transactions, including purchases, sales, turnover, private placements, soft dollar purchases, and transaction costs such as commissions, dealer spreads and accommodations.

(k) A review of the role of any outside managers and advisers, stockholder voting, and changes in investment staff or reorganization.

SEC. 2. Section 22218.7 is added to the Education Code, to read:

22218.7. The board shall submit a review of the system's assets to the Legislature on a quarterly basis, which report shall:

(a) Discuss the system's portfolio and contain the following information:

(1) Concentration, current holdings at cost and market value, of equities.

(2) Concentration, current holdings at cost and market value, of fixed income instruments.

(3) Current holdings at cost and market value of real estate equities.

(4) Current holdings at cost and market value of mortgages.

(5) Options and forward commitments.

(6) Cash and cash equivalents.

(b) Disclose the following information on the rate of return of the fund by type of asset:

(1) Time-weighted return on a five-year, three-year, two-year, and one-year basis.

(2) Dollar-weighted return on a five-year, three-year, two-year, and one-year basis.

(3) Summary of performance of an alternative theoretical portfolio containing all investments and performance of comparable universes and other indexes.

SEC. 3. Section 22225.75 is added to the Education Code, to read:

22225.75. Notwithstanding Section 13340 of the Government Code, there is hereby continuously appropriated, without regard to

fiscal years, from the retirement fund to the board, the amount necessary to pay for any insurance obtained pursuant to Section 7511 of the Government Code, which payments shall be made upon warrants drawn by the Controller upon demands made by the board.

SEC. 4. Section 7511 is added to the Government Code, to read:

7511. Notwithstanding any other provision to the contrary:

(a) A public retirement system may purchase insurance for its fiduciaries or for itself to cover liability or losses occurring by reason of the act or omission of a fiduciary, if the insurance permits recourse by the insurer against the fiduciary in the case of a breach of a fiduciary obligation by the fiduciary.

(b) A fiduciary may purchase insurance to cover liability under this section from and for his or her own account.

(c) An employer or an employee organization may purchase insurance to cover potential liability of one or more persons who serve in a fiduciary capacity with regard to an employee benefit plan.

SEC. 5. Section 20138 is added to the Government Code, to read:

20138. The board shall submit an annual report to the Legislature, which report shall include:

(a) A copy of the annual audit performed pursuant to Section 20233.

(b) A review by a consultant, a summary of any changes in actuarial assumptions from the previous year, a review of the system's asset mix strategy, a market review of the economic and financial environment in which investments were made, and a summary of the system's general investment strategy.

(c) A description of the system's investments, including the concentration of stocks and bonds, at cost and market value, including dividends and coupons, and a summary of major changes that occurred since the previous year.

(d) The following information regarding the rate of return of the system by asset type:

(1) Time-weighted return on a five-year, three-year, two-year, and one-year basis.

(2) Dollar-weighted return on a five-year, three-year, two-year, and one-year basis.

(3) Portfolio return comparisons which compare investment returns with an alternative theoretical portfolio of comparable funds, universes, and indexes.

(4) Returns as credited to employer accounts.

(5) Returns as reported in the annual reports.

(6) Returns as reported by the Controller.

(e) A transaction summary which shall adequately review the system's custodial relationship and daily cash management, purchases, sales, turnover, private placements, soft dollar purchases, and transaction costs such as commissions, dealer spreads and accommodations.

(f) The system shall report on the use of outside investment advisers and managers and any participation in corporate annual

meetings and shareholder voting.

(g) A statement of actuarial gains and losses, including the components of the employer contribution rate, and the sensitivity of the statement information to changes in the economic or noneconomic actuarial assumptions.

(h) A discussion of the system's portfolio containing the following information:

(1) Concentration, current holdings at cost and market value, risk characteristics (R-squared, Beta standard error), fundamentals (P/E, dividend yield, measures of growth, size, earnings quality, debt/equity) of equities.

(2) Concentration, current holdings at cost and market value, maturity, duration, quality, coupon, and current yield of fixed income instruments.

(3) Current holdings at cost and market value of real estate equities.

(4) Current holdings at cost and market value of mortgages.

(5) Securities lending activity.

(6) Options and forward commitments.

(7) Cash and cash equivalents.

(i) Include a performance review of asset allocation, of equities due to market timing, sector selection, stock selection and trading, of fixed income instruments due to interest rate anticipation skills, credit analysis, sector trading and swapping and of value added over indexing (alpha).

(j) A review of the system's custodial relationship and daily cash management and a summary of the system's investment transactions, including purchases, sales, turnover, private placements, soft dollar purchases, and transaction costs such as commissions, dealer spreads and accommodations.

(k) A review of the role of any outside managers and advisers, shareholder voting, and changes in investment staff or reorganization.

SEC. 6. Section 20139 is added to the Government Code, to read:

20139. The board shall submit a review of the system's assets to the Legislature on a quarterly basis, which report shall:

(a) Discuss the system's portfolio and contain the following information:

(1) Concentration, current holdings at cost and market value, of equities.

(2) Concentration, current holdings at cost and market value, of fixed income instruments.

(3) Current holdings at cost and market value of real estate equities.

(4) Current holdings at cost and market value of mortgages.

(5) Options and forward commitments.

(6) Cash and cash equivalents.

(b) Disclose the following information on the rate of return of the fund by type of asset:

(1) Time-weighted return on a five-year, three-year, two-year, and one-year basis.

(2) Dollar-weighted return on a five-year, three-year, two-year, and one-year basis.

(3) Summary of performance of an alternative theoretical portfolio containing all investments and performance of comparable universes and other indexes.

SEC. 7. Section 20205.85 is added to the Government Code, to read:

20205.85. Notwithstanding Section 13340, there is hereby continuously appropriated, without regard to fiscal years, from the retirement fund to the board, the amount necessary to pay for any insurance obtained pursuant to Section 7511, which payments shall be made upon warrants drawn by the Controller upon demands made by the board.

CHAPTER 1504

An act to add Section 22225.9 to the Education Code, relating to public employee retirement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1984. Filed with Secretary of State September 27, 1984.]

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

SECTION 1. Section 22225.9 is added to the Education Code, to read:

22225.9. All members of the board and its officers and employees shall execute a fidelity bond, in an amount determined by the board to be prudent, conditioned upon the faithful performance of the duties of the member or employee.

All members of the board and its officers and all staff of the investment division who are authorized to invest funds shall be covered with fiduciary liability insurance in an amount determined by the board to be prudent.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Current state law provides that the State Teachers' Retirement System (STRS) board members and officers must reimburse the Teachers' Retirement Fund for any losses resulting from a breach of their fiduciary duty. However, current law provides that the Department of General Services, which has no fiduciary liability obligation, can disapprove and delay the acquisition of the needed coverage. Fidelity bond and fiduciary liability insurance coverage

would provide protection to STRS board members and officers, and to the system participants who would be provided greater security for their retirement benefits since losses to the plan are more likely to be restored. It is necessary, therefore, that this act take effect immediately.

CHAPTER 1505

An act to repeal and add Chapter 3 (commencing with Section 99150) to Part 65 of the Education Code, relating to education.

[Approved by Governor September 27, 1984. Filed with Secretary of State September 28, 1984.]

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

SECTION 1. Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code is repealed.

SEC. 2. Chapter 3 (commencing with Section 99150) is added to Part 65 of the Education Code, to read:

CHAPTER 3. STANDARDIZED TESTS

99150. (a) The Legislature finds and declares that:

(1) Education is fundamental to the development of all residents and to the progress of the state as a whole.

(2) Standardized tests are a major factor in the admission and placement of students in postsecondary education.

(3) There is increasing concern among residents, educators, and public officials regarding the proper uses of standardized tests in the admissions and placement decisions of postsecondary education institutions.

(4) The rights of test subjects should be assured without infringing upon the proprietary rights of the test agencies.

(b) It is the intent and purpose of the Legislature in enacting this chapter to do all of the following:

(1) Ensure that test subjects and persons who use test results are fully aware of the characteristics, uses, and limitations of standardized tests used in postsecondary education admissions and placement.

(2) Ensure due process protection of test subjects whose scores are being questioned for suspected inauthenticity or irregularity in test administration.

(3) Provide test subjects with the opportunity to review the basis on which the test subject has been scored.

(4) Make available to the public appropriate information regarding the procedure, development, and administration of standardized tests.

(5) Promote more knowledge about the proper use of standardized test results and promote greater accuracy, validity, and reliability in the development, administration, and interpretation of standardized tests.

99151. (a) "Admissions data assembly service" means any summary or report of grades, grade point averages, standardized test scores, or any combination of grades and test scores, of a test subject used by any test score recipient.

(b) "Commission" means the California Postsecondary Education Commission.

(c) "Standardized test" or "test" means any test administered in California at the expense of the test subject which is used for the purposes of admission to, or class placement in, postsecondary educational institutions or their programs, or any test used for preliminary preparation for those tests.

"Standardized test" or "test" includes, but is not limited to, the Preliminary Scholastic Aptitude Test, the Scholastic Aptitude Test, the College Board Achievement Tests and Advanced Placement Tests, the ACT Assessment, the Graduate Record Examination, the Medical College Admission Test, the Law School Admission Test, the Dental Admission Testing Program, the Graduate Management Admission Test, and the Miller Analogies Test.

The standardized test does not include a test, or part of a test, which has been in use for less than five years, or which is administered to a selected group of individuals principally for research, pre-test, equating, guidance, counseling, or for the purposes of meeting graduation requirements of secondary schools and postsecondary educational institutions.

Tests which are administered as supplements or auxiliaries to another test, or which form a specialized component of a test, may be combined for the purposes of this chapter.

(d) "Secure test" means any test which contains items not available to the public and which, to allow the further use of test items and to protect the validity and reliability of the test, is subject to special security procedures in its publication, distribution, and administration.

(e) "Test subject" or "subject" means an individual who takes a standardized test.

(f) "Test sponsor" or "test agency" means an individual, partnership, corporation, association, company, firm, institution, society, trust, or joint stock company which develops, sponsors, or administers standardized tests.

(g) "Testing year" means the 12 calendar months which the test agency considers either its operational cycle or its fiscal year.

(h) "Test score" or "score" means the value given to the test subject's performance on a standardized test, administered by the test agency, whether reported in numerical, percentile, or any other form.

(i) "Test score recipient" means any person, organization,

association, corporation, postsecondary education institution, or governmental agency or subdivision to which the test subject requests or designates that a test agency report a test score.

(j) "Score reporting service" means the reporting of a test subject's standardized score to a test score recipient by a test agency.

(k) "Test preparation course" means any curriculum, course of study, plan of instruction, or method of preparation given for a fee which is specifically designed or constructed to prepare or improve a test subject's score on a standardized test.

(*l*) "Test program" means all of the administrations of a test of the same name during a testing year.

99152. Each test sponsor shall report the closing date of its testing year to the commission by February 1, 1985, or within 90 days after it first becomes a test sponsor, whichever is later. Each test sponsor shall report any change in the closing date of its testing year within 90 days after the change.

99153. On or before November 15 of each year, the test sponsor shall submit to the commission all of the following data and information:

(a) Three copies of each version of the test which was disclosed in the prior testing year, along with the corresponding acceptable answers, and the methods used to convert raw scores into the test scores reported to test subjects and test score recipients, together with an explanation of that method.

(b) The dates of major or national administration of each test administered by the test agency during the testing year.

(c) The total number of test subjects who have taken the test once, who have taken it twice, and who have taken it more than twice during the testing year.

(d) The total number of test subjects who registered for, but did not take, the test.

(e) The total amount of fees received from test subjects by the test agency for the test for that testing year.

(f) The expenses to the test sponsor of the test, as follows:

(1) Those expenses which are directly attributable to the test.

(2) Those expenses which are indirectly attributable to the test. However, if the test sponsor also sponsors another test or related activities, it shall be sufficient for compliance with provisions of this section for the test sponsor to list indirectly attributable expenses, to the extent that they are identifiable, as they are proportionately related to the test. The test sponsor shall also list expenses indirectly attributable to all activities of the test's sponsor, including expenses not identifiable as attributable to a test.

The financial disclosure required by this section shall be submitted within 135 days after the close of the testing year and in sufficient detail to indicate the major categories of revenues and expenses associated with the test. Except as provided in this section, the information for different tests administered by the same test sponsor shall be reported separately and by individual test.

(g) A copy of all documents, pamphlets, and literature provided to the test subject and the test score recipient.

(h) Where applicable, the national average test scores, state average test scores, the standard error of measurement, and any other existing information relevant to a comparison of the test scores of the state's test subjects with test scores of previous test subjects of the past five years.

(i) For those tests used to predict academic performance, the most recent national or regional aggregation of data concerning the predictive validity of all of the following:

(1) Academic record or grades alone.

(2) Standardized test score alone.

(3) Academic record and test score combined.

(4) Standardized test scores over and above the predictive validity of academic record alone.

(j) Using available data, the racial, ethnic, and sex breakdown of all test subjects taking each test during the testing year.

(k) If a separate fee is charged test subjects for admissions data assembly service, the test sponsor shall report information concerning the data assembly service in substantially the same form as would be required for a test under this section.

(*l*) This section shall not be construed to require any test agency to submit to the commission any reports or documents containing information relating to any individual test subject. Any information relating to any individual test subject shall be deleted or obliterated from any reports or documents filed with the commission pursuant to this section.

(m) This section shall not apply to any standardized test which is administered to fewer than 3,000 test subjects in California during a testing year.

99154. (a) Within 90 days of the close of each testing year, the test sponsor shall file with the commission standard technical data sufficient to describe the psychometric quality of the test.

For purposes of compliance with this section, it is sufficient to deposit with the commission information conforming to the guidelines specified in the Standards for Educational and Psychological Tests of the American Psychological Association, which were in effect 180 days prior to the testing year, and which are appropriate to the particular test and its uses.

(b) Data, reports, or other documents submitted pursuant to this section shall be accompanied by a description of the test, including, but not limited to, the title, purpose or purposes of the test, and when and where the test was administered in the state.

(c) Data, reports, or other documents submitted pursuant to this chapter shall not contain information in a form identifiable with individuals or particular postsecondary educational institutions.

99155. The commission shall prepare and submit an annual report regarding standardized tests of the state's test subjects to the Governor, the Legislature, the Regents of the University of

California, the Board of Governors of the California Community Colleges, the Trustees of the California State University, the California Postsecondary Education Commission, and the Superintendent of Public Instruction on or before March 1 of each year. This report shall include a descriptive summary of existing data and information submitted to the commission pursuant to Section 99153, including all of the following:

(a) The number of California students taking standardized tests.

(b) The performance of California test subjects.

(c) The predictive validity of test scores as specified in subdivision (i) of Section 99153.

(d) A description of the information specified in subdivisions (a), (b), and (c) according to the sex and ethnicity of test subjects.

(e) The revenues received by test sponsors, and the proportion of those revenues expended for test development and administration.

99156. A test agency shall prepare a clear, easily understandable written description of each standardized test it administers. A copy of the appropriate description shall be provided to the test subject or the test score recipient prior to the administration of the test or coinciding with the initial reporting of a test score. The description shall include all of the following information:

(a) The purposes for which the test is constructed and intended to be used.

(b) For those tests used to predict performance, the subject matter included on these tests and the knowledge and skills which the test purports to measure.

(c) Statements designed to provide information for interpreting the test scores, including the explanations of the test, the standard error of measurement, and for those tests used to predict performance, the correlation between test score and performance.

(d) Statements concerning the effects and uses of test scores, including both of the following:

(1) If the test score is used by itself or with other information to predict future grade point average, a summary of existing data on the extent to which the use of this test score will improve the accuracy of predicting future grade point average, over and above all other information used.

(2) A summary of existing data on the extent to which the improvement in test scores results from test preparation courses.

(e) A description of the form in which test scores will be reported, and whether the raw test scores will be altered in any way before being reported to the test subject.

(f) A complete description of any promises or covenants which the test agency makes to the test subject with regard to any of the following matters:

(1) The accuracy of scoring.

(2) The time period within which the test subject's score will be reported to the test subject and to the test score recipients.

(3) The privacy of information relating to the test subject,

including his or her test scores.

(g) The property interest in the test score held by the test subject, if any.

(h) The period of time the test agency will retain the test score, and the test agency's policies regarding the storage, disposal, and future use of test scores.

(i) A description of all special services which will be provided at the location of the test administration to accommodate handicapped or disabled test subjects.

(j) The policies and procedures of the test agency when there is a delay in reporting the test scores pursuant to Section 91160.

(k) A representative set of sample test items.

(*l*) The fees to be charged by the test sponsor for various services made available to the test subject.

(m) Each test agency shall comply with the requirements of this section beginning with the start of its testing year which begins after January 1, 1985.

99157. (a) Within 90 days of the release to the test subject of the results of a standardized test as specified in subdivision (c), and upon the request of the test subject, the test sponsor shall provide to the test subject an opportunity to examine operational test questions and answers under closely monitored conditions. The examination shall occur at a location to be mutually agreed upon by the test sponsor and test subject.

Unless authorized by the test sponsor, questions, answers, or copies of questions or answers shall not be removed from the facility, except by a representative of the test sponsor. During the examination of test materials, the test subject may file with a representative of the test sponsor, and with an educational institution or institutions seeking results of the test examined, a written protest to any question or answer.

(b) As an alternative to the procedure described in subdivision (a), and within 90 days of the release of the results of any standardized test score to the test subject, and upon request of the test subject, the test sponsor shall make available to the test subject the test materials, including operational test questions, a copy of the test subject's response to each question, the test subject's raw scores, a copy of scoring and scaling instructions, a copy of the correct responses, and a copy of the conversion factor or table, or both.

Each test sponsor shall, prior to the administration of a test, give written notification to the test subject of his or her right to request and receive test disclosure as provided in this section.

(c) Except for test administrations described in subdivision (d), the test sponsor shall provide to test subjects the test materials specified in subdivisions (a) and (b) for not fewer than 50 percent of regular test administrations, as determined by the test sponsor. If the application of 50 percent results in a number which includes a fraction, the number shall be rounded to the nearest larger whole number.

(d) In order to accommodate test subjects who, because of religion, are unable to participate in regular test administrations, the test sponsor shall provide test materials specified in subdivisions (a) and (b) to test subjects of not fewer than one non-Saturday test administration during every 12-month period following December 1, 1984.

(e) Each test sponsor shall, prior to the administration of a test, give written notification to the test subjects of their right to request and receive test materials as provided in subdivisions (a), (b), and (c), provided that the request has been made within 90 days of the release of the test score to the test subject.

(f) The test sponsors may charge a nominal fee, not to exceed the direct costs thereof, for test materials provided pursuant to this section.

(g) For the purposes of this section only, a "standardized test" or "test" means any test administered in California to at least 3,000 individuals during a testing year and which is designed for, and formally required by, institutions of postsecondary education in California for the purposes of admission to those institutions for undergraduate studies. This section does not apply to tests that have been administered for less than five years, the College Board Achievement tests, the Advanced Placement tests, the Medical College Admissions tests, or the test of English as a foreign language.

99158. If the test agency will be delayed in reporting a test subject's score for a time period amounting to 10 calendar days beyond the period specified in paragraph (2) of subdivision (f) of Section 99156, the test agency shall notify the test subject immediately. The notice shall indicate the reasons for delay, including, but not limited to, incorrect, incomplete, or inconsistent personal identifying information furnished by a test subject.

99159. (a) Whenever a test agency is presented with information which renders the test subject's test score suspect, whether that information is in the form of allegations of collusion or cheating, or irregular test administration, or irregular statistical data, or any other form, the test agency is responsible for reviewing the information and determining if withholding the test subject's score is warranted.

(b) If the test agency determines that withholding the test subject's score is warranted, the test agency shall give the test subject written notice of the test agency's decision. The notice shall be sent by registered mail not later than five working days after the test agency's decision.

(c) The notice to the test subject shall include all of the following:

(1) A complete summary of the information submitted to the test agency and relied upon by the test agency to withhold the score.

(2) A complete summary of the pertinent facts surrounding the investigation.

(3) A statement of the test subject's right to receive, upon request, details supporting complete summaries referred to in paragraphs (1) and (2).

(4) The policies and procedures that were followed by the test agency in reviewing and rendering a decision to withhold the test score.

(5) The potential consequences which may result from the investigation, such as withholding or invalidating the test scores.

(6) A summary of the information that may be submitted to the test agency by the test subject to support the authenticity of the test score.

(7) A statement informing the test subject that the opportunity to respond to the notice will be afforded for not more than 15 working days following the date the notice was delivered. No final decision on the question of suspected irregularity or inauthenticity shall be rendered by the test agency until the test subject under investigation has responded, or the time for doing so has expired, whichever occurs first.

(d) After the time period specified in paragraph (7) of subdivision (c) has expired, the test agency shall review all of the evidence and shall render a decision regarding the authenticity of the score.

No test agency shall cancel or invalidate a test subject's test scores on the basis of an alleged irregularity or inauthenticity unless, after all evidence has been considered by the test agency, substantial evidence resulting from an investigation conducted pursuant to this section supports the cancellation or invalidation.

99160. (a) Whenever the test agency determines that substantial evidence exists to support cancellation or invalidation of a test score, the test agency shall provide the test subject with a choice of the following options:

(1) A cancellation of the test scores in question, with full refund of all test fees.

(2) Opportunity to take the test again privately and without charge.

(3) Opportunity to seek judicial review of the matter.

(b) The test subject shall have 30 days following receipt of the notice by registered mail to respond to the notice of inauthenticity.

(c) If the test subject responds to the notice of inauthenticity or irregularity of test scores sent by the test agency within the time period specified by subdivision (b), the test agency shall review the contents of the response and comply with one of the following:

(1) If the test subject requests cancellation of the test scores, a full refund of all test fees will be provided within a reasonable period.

(2) If the test subject requests an opportunity to take the test again privately and without charge, the test agency shall make appropriate accommodations that are mutually agreed upon by the test agency and test subject so that the test subject has sufficient time to prepare for the retest. The retest shall be given in a reasonable and timely manner.

(3) Nothing in this section precludes the parties from seeking resolution of the testing problems by either judicial review or arbitration.

(d) The test agency shall not release confidential information to any authorized test score recipients regarding a test subject under pending investigation, unless authorized to do so by the test subject.

(e) The test agency shall immediately release the test score to the test subject and the test score recipients where no substantial evidence exists to render the inauthenticity or irreguarity of the test score.

(f) The procedures prescribed in Section 99159 and this section do not apply to instances where the cancellation of all test scores results from the complete disruption of the administration of the test, such as by natural disasters, national emergencies, inadequate or improper test conditions, answer sheet printing errors, or testing agency errors.

(g) Time procedures described in Section 99159 and this section shall not apply in those instances where test scores have already been reported to test score recipients.

99161. (a) No test agency shall release or disclose any test score identifiable with any individual test subject, in any form whatsoever, to any test score recipient, unless the agency is specifically authorized by the test subject to release that test score to the recipient. A test agency may, however, release all scores received by a test subject on a test to anyone designated by the test subject to receive the test score.

(b) A test agency may release test scores and other information in a form which does not identify any individual test subject for purposes of research, studies, and reports primarily concerning the test itself.

99162. Any information or report required to be submitted to the commission pursuant to this chapter shall be public record subject to disclosure under the provisions of Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

Nothing in this section shall be construed to diminish or authorize the infringement of any rights protected by law relating to copyright, to the protection of trade secrets, or other proprietary rights.

99163. Any test sponsor who intentionally violates any provision of this chapter shall be liable for a civil penalty not to exceed seven hundred fifty dollars ($750) for each violation.

99164. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

CHAPTER 1506

An act relating to community colleges, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1984. Filed with Secretary of State September 28, 1984.]

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

SECTION 1. (a) The Legislature finds and declares that the community colleges are a large and important segment of California's system of public higher education. In the last 20 years, community colleges have not only experienced tremendous growth in the numbers of students enrolled, but have undergone a major transition in the types of students served and the types of programs and courses offered. Community colleges have also experienced an unacceptable degree of uncertainty and instability in their revenues over the last decade.

(b) The Legislature further finds and declares that legislative actions regarding community colleges have not been based on a comprehensive policy on the role that community colleges should play in public education. Community colleges have been reacting and responding to narrow changes in state policy that have shaped the functions of the colleges by default, rather than by design.

(c) It is, therefore, the intent of the Legislature to require the Commission for the Review of the Master Plan for Higher Education established pursuant to Senate Bill 1570 of the 1983–84 Regular Session to set the reassessment of the mission of the community colleges as its first and highest priority.

SEC. 2. The study described in this act shall be conducted as follows:

(a) The study shall be an assessment of the mission of the community colleges. The assessment shall include, but not be limited to, all of the following:

(1) A comparison of the statutory directives regarding the programs and activities required to be offered by community colleges, and the programs and activities actually offered by community colleges.

(2) An assessment of, and recommendations regarding, the appropriateness of all of the following programs, courses, and activities to the mission of the community colleges, particularly with respect to the functions of other state educational institutions, and the priorities which should be given to all of the following programs, courses, and activities:

(A) Transfer programs.

(B) Vocational programs.

(C) Programs leading to associate degrees.

(D) Certificate programs leading to employment.

(E) General education courses.

(F) Remedial and basic skills courses.

(G) Noncredit courses.

(H) Fee-supported community services courses.

(I) Student services, including, but not limited to, counseling, testing, job placement, and financial aid.

(J) Other programs, courses, and activities currently offered by community colleges.

(3) An assessment of the current socioeconomic composition of community college students, and recommendations for methods to ensure that all California residents will have access to community college programs and services.

(4) Policy recommendations designed to ensure that the academic quality of community college programs and courses will be maintained and enhanced.

(5) Other policy recommendations regarding the mission of the community colleges or community college operations the commission deems appropriate.

(b) On or before December 31, 1985, the commission shall submit the findings and recommendations developed pursuant to subdivision (a) to the Joint Committee for the Review of the Master Plan for Postsecondary Education.

SEC. 3. The reassessment study, as specified in Section 2 of this act, shall be directed by the Commission for the Review of the Master Plan for Higher Education.

SEC. 4. Upon completion of the reassessment study authorized by this act, all of the documents and working papers of the commission shall become the property of, and be maintained by, the State Archives.

SEC. 5. This bill shall not take effect unless Assembly Concurrent Resolution 162 and Senate Bill 1570, both of the 1983–84 Regular Session, are also chaptered.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the reassessment study required by this act may be completed as expeditiously as possible so that the important problems facing community colleges may be addressed, it is necessary that this act take effect immediately.

CHAPTER 1507

An act to add and repeal Section 66903.7 of the Education Code, relating to postsecondary education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1984. Filed with Secretary of State September 28, 1984.]

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

SECTION 1. Section 66903.7 is added to the Education Code, to read:

66903.7. (a) There is hereby established the Commission for the Review of the Master Plan for Higher Education to be comprised of 16 members who shall be citizens knowledgeable in the area of postsecondary education, business, and community leaders representative of the cultural, ethnic, and geographic diversity of the state. Members of the Commission for the Review of the Master Plan for Higher Education shall be appointed as follows:

(1) One representative appointed by the Regents of the University of California.

(2) One representative appointed by the Trustees of the California State University.

(3) One representative appointed by the Board of Governors of the California Community Colleges.

(4) One representative appointed from among the membership of the California Postsecondary Education Commission.

(5) The Superintendent of Public Instruction, or his or her designee.

(6) Four representatives appointed by the Governor.

(7) Three representatives appointed by the Speaker of the Assembly.

(8) Three representatives appointed by the Senate Rules Committee.

(9) One representative appointed by the Association of Independent California Colleges and Universities.

The Governor may designate any one of the 16 members appointed to the commission pursuant to this subdivision to serve as chairperson of the commission.

(b) No person who is employed or retained by any public or private postsecondary educational institution shall be appointed to or serve on the commission. Representatives to the commission shall receive reimbursement for actual and necessary travel expenses incurred while conducting the business of the commission.

(c) The duties of the Commission for the Review of the Master Plan for Higher Education shall include, but need not be limited to, the review of relevant reports by the California Postsecondary

Education Commission, the University of California, the California State University, the Board of Governors of the California Community Colleges, the Department of Finance, the Legislative Analyst, or any other reports the commission deems appropriate.

The commission shall select and designate a state administrative agency to carry out the personnel, contractual, and all other fiscal services required by the commission.

In addition, the commission shall, at a minimum, report on all of the following to the Joint Legislative Committee on the Review of the Master Plan established pursuant to Assembly Concurrent Resolution 162 of the 1983–84 Regular Session:

(1) California's postsecondary educational needs through the year 2000, with emphasis on the demography of student, societal, and employment needs in the next decade versus the projected supply of postsecondary education faculty.

(2) Basic and lower division instruction at the various postsecondary institutions, with an initial emphasis on the mission and function of the California Community Colleges, as specified in Senate Bill 2064 of the 1983–84 Regular Session.

(3) Strategies to promote an increase in the access and success of students, particularly those underrepresented in postsecondary education, including adult education through graduate instruction, in the following areas:

(A) Preparation and outreach: basic skills and college preparation in kindergarten through grade 12, and community college curriculum.

(B) Matriculation: admission, assessment, and advisement.

(C) Retention: remediation, academic support, and financial assistance.

(D) Articulation: transition from secondary education to postsecondary education and employment.

(E) Accountability: assurance that courses offered are consistent with the mission of various segments of postsecondary education.

(4) The appropriateness of existing educational delivery systems and their ability to serve present and future student populations.

(5) Analysis of direct and indirect expenditures for students attending California postsecondary institutions, including student financial assistance and instructional support, as to the efficient use of state resources.

The commission shall conduct public hearings designed to solicit testimony of private citizens, public interest groups, alumni organizations, or any other interested private groups and organizations, as well as professors, administrators, students, and others who are directly affected by that master plan, for the purpose of soliciting the input of these groups in the formulation of the commission's recommendations regarding the master plan.

The commission shall formulate and submit recommendations regarding the policies and content of the master plan, in addition to recommendations regarding the goals, programs, functions, funding,

and interrelationships of the Master Plan for Higher Education.

(c) The commission shall develop and submit a management plan identifying the commission's specific objectives and output for review by the Joint Legislative Committee for the Review of the Master Plan for Higher Education by March 1, 1985. The management plan shall also include resource and staffing requirements and specific dates for the completion of interim and final reports to the Joint Committee.

(d) Not later than January 1, 1987, the Commission for the Review of the Master Plan for Higher Education shall submit a report to the Legislature and the Governor relative to its findings and recommendations regarding the master plan and the functions and interrelationships of public postsecondary education institutions.

(e) It is the intent of the Legislature that any agency receiving public funds for postsecondary education shall, upon request by the commission, provide all necessary information or assistance required by the commission.

(f) This section shall become inoperative on June 30, 1987, and, as of January 1, 1988, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1988, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 1 of this act shall not become operative unless both Assembly Concurrent Resolution 162 and Senate Bill 2064 of the 1983–84 Regular Session are chaptered, and in that case Section 1 of this act shall become operative upon the later of the effective dates of this bill, Assembly Concurrent Resolution 162, or Senate Bill 2064.

SEC. 3. The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the General Fund to the Controller for allocation to the Commission for the Review of the Master Plan for Higher Education for all expenses deemed necessary by the commission without regard to fiscal years.

SEC. 4. Upon completion of the study authorized by this act, all of the documents and working papers of the commission shall become the property of the State Archives.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the reassessment study of the Master Plan for Higher Education required by this act may be completed at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1508

An act to add Section 4582.3 to the Public Resources Code, relating to forest practices.

[Approved by Governor September 28, 1984. Filed with Secretary of State September 28, 1984.]

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

SECTION 1. Section 4582.3 is added to the Public Resources Code, to read:

4582.3. The board shall, on or before May 1, 1985, adopt regulations regarding notice of intent to harvest timber, to be given within two working days following submission of a timber harvesting plan, which it determines to be appropriate and which are consistent with law and Horn v. County of Ventura, 24 Cal. 3d 605. In adopting the regulations, the board shall take account of the extent of the administrative burden involved in giving the notice. The method of notice shall include, but not be limited to, mailed notice. The regulations may require the person submitting the timber harvesting plan to provide to the department a list of the names and addresses of persons to whom the notice was mailed and a written declaration that the mailing has been completed.

CHAPTER 1509

An act to add Article 5 (commencing with Section 92650) to Chapter 6 of Part 57 of the Education Code, and to add Sections 14089.1, 14089.2, 14089.3, 14089.4, and 14089.5 to the Welfare and Institutions Code, relating to health.

[Approved by Governor September 28, 1984. Filed with Secretary of State September 28, 1984.]

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

SECTION 1. Article 5 (commencing with Section 92650) is added to Chapter 6 of Part 57 of the Education Code, to read:

Article 5. Health Sciences Program Review

92650. (a) It is the intent of the Legislature to review, during the annual budget process, the current University of California health sciences program and to assess the following with regard to General Fund support of the system:

(1) The appropriate number and balance between primary and nonprimary care residency positions.

(2) The relationship between the General Fund resource capacity to support the current physician output of the system and the costs to the General Fund of an oversupply of physician specialists.

(3) The current and projected pattern of health manpower training in relationship to future supply and demand projections.

(4) The distribution of University of California medical school graduates with regard to placement in areas, and service to populations, underserved by the medical profession.

(b) It is the intent of the Legislature to monitor the new, comprehensive plan currently under development by the University of California for programs in health professions education, and, upon the completion of that plan, to monitor, during the annual budget process, both the compliance of the university with its plan and the plan's relevance to the state's need for health professionals and health care services.

SEC. 2. Section 14089.1 is added to the Welfare and Institutions Code, to read:

14089.1. In accordance with procedures required by Section 14408, all marketing activities shall require prior approval of the department.

SEC. 3. Section 14089.2 is added to the Welfare and Institutions Code, to read:

14089.2. In accordance with procedures required by Chapter 8 (commencing with Section 14200), each contract with a capitated health system shall provide for a grievance procedure under which Medi-Cal beneficiaries may submit their grievances. The department shall establish standards for these procedures to include appeals to an entity other than the capitated health system.

SEC. 4. Section 14089.3 is added to the Welfare and Institutions Code, to read:

14089.3. The department shall not contract with insurance carriers, organized health systems, or provider organizations, that employ or subcontract with plans that employ providers under suspension from the Medicare or Medi-Cal program.

SEC. 5. Section 14089.4 is added to the Welfare and Institutions Code, to read:

14089.4. The negotiator may consult with the Department of Insurance or the Department of Corporations and shall consult with the Department of Justice Medi-Cal Fraud Unit, the appropriate licensing boards and the laboratory field services unit of the department for the purposes of determining the qualifications, performance capability, and financial stability of prospective contractors.

SEC. 6. Section 14089.5 is added to the Welfare and Institutions Code, to read:

14089.5. (a) The department or its authorized agents shall conduct periodic audits or review, including onsite audits or review, to monitor compliance with Article 4 (commencing with Section 14400) of Chapter 8 with regard to any contract made pursuant to

this article. These reviews may be conducted with or without notice and may include assistance by the Attorney General if requested.

(b) The department may terminate a contract, in whole or in part, when the director determines that this action is necessary to protect the health of the beneficiaries or the funds appropriated to carry out the Medi-Cal program.

SEC. 7. The State Department of Health Services and the negotiator shall adopt any regulations necessary to implement this act. These regulations shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and, for the purposes of the Administrative Procedure Act, shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare and shall not be subject to the review, approval, modification or repeal by the Office of Administrative Law pursuant to any provision of Chapter 3.5.

SEC. 8. (a) Any provision of this act which is in conflict with any federal statute or regulation shall be inapplicable to the extent of the conflict, subject to subdivision (c), but the remainder of the provisions shall be unaffected to the extent no conflict exists.

(b) The State Department of Health Services shall seek all federal waivers necessary to implement the provisions of this act except for provisions of federal law expressly included in this act. The provisions for which federal waivers cannot be obtained shall not be implemented, but provisions for which waivers are either obtained or found to be unnecessary shall be unaffected by the inability to obtain federal waivers for the other provisions.

(c) If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

CHAPTER 1510

An act to add Article 4 (commencing with Section 14060) to Chapter 1 of Part 5 of Division 3 of Title 2 of the Government Code, and to add Sections 6018.8 and 6368.7 to the Revenue and Taxation Code, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1984. Filed with Secretary of State September 28, 1984.]

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

SECTION 1. Article 4 (commencing with Section 14060) is added to Chapter 1 of Part 5 of Division 3 of Title 2 of the Government Code, to read:

Article 4. Purchase, Sale, and Leasing of Passenger Transportation Vehicles

14060. The following definitions apply to this article:

(a) "Equipment" means rail passenger cars, locomotives, other rail vehicles, bus and van fleets, and ferryboats.

(b) "Equipment obligations" means notes, equipment trust certificates, or other obligations, including grant anticipation notes, issued by the department pursuant to this article to finance the acquisition of equipment.

(c) "Grant anticipation notes" means notes issued by the department in anticipation of the receipt of funds from the federal or a local government as the proceeds of grants or participation funding for which funds have been appropriated and committed to the department for equipment acquisition.

14061. The department may take all action necessary to purchase, sell, or lease equipment by negotiation without competitive bidding to take advantage of Section 168 of Title 26 of the United States Code in connection with the sale and leasing of equipment.

As required, the department may negotiate indemnification with the equipment depreciation purchasers as required by market conditions. Neither the sale nor the lease of equipment pursuant to this section constitutes a sale or purchase for the purposes of the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code).

Contracts for the services of financial agents, negotiators, bond counsel, and for the sales or purchases of these obligations or benefits are not subject to Chapter 6 (commencing with Section 14780) of Part 5.5.

14062. (a) The department may issue equipment obligations to finance the acquisition of equipment pursuant to a resolution adopted by the commission, authorizing the issuance thereof from time to time as provided in the resolution.

(b) A resolution authorizing the issuance of equipment obligations shall specify any provisions or conditions as to the form, execution, and terms of the obligations that the commission may deem appropriate, subject to this article.

(c) Equipment obligations shall be payable at any time or times that the commission may determine, but not later than five years after the date of their issuance. Equipment obligations shall bear interest at any rate or rates that the commission may determine, but not exceeding 12 percent per annum, payable at any times that the commission may specify in the resolution authorizing their issuance.

(d) Equipment obligations may be made subject to redemption

prior to their maturity, at the option of the commission, at any price or prices that may be fixed in the resolution, not exceeding a premium of 5 percent of the par value of any obligation subject to redemption.

14063. (a) Grant anticipation notes shall be issued only in anticipation of a grant or funding commitment to the department which has been stated by the granting authority or agency to be contracted, committed, or appropriated and payable on a specified date or dates or upon the happening of a specified event or events. The amount of grant anticipation notes outstanding at any time shall not exceed 75 percent of the grant or funding.

(b) The proceeds of the grant shall be pledged to the payment of the grant anticipation notes, and the interest thereon. The notes, and the interest thereon, shall be a first lien upon the proceeds.

(c) Grant anticipation notes and the interest thereon shall be payable from the proceeds of the grant or funding in anticipation of which the notes are issued, from the Passenger Equipment Acquisition Fund, or from any other funds lawfully available therefor.

14064. (a) Equipment obligations shall be sold by the Treasurer, after a resolution requesting the sale has been adopted by the commission. Equipment obligations may be sold by public bid or by a private negotiated sale. The Treasurer may sell equipment obligations at a discount not to exceed 5 percent of the par value thereof.

(b) Equipment obligations, and the interest thereon, are exempt from taxation in this state, except for gift taxes.

14066. (a) The Passenger Equipment Acquisition Fund is hereby created in the State Treasury. Notwithstanding Section 13340, all moneys in the fund are continuously appropriated to the department to pay the principal of, interest on, and redemption premium, if any, on equipment obligations, to pay all costs of issuance and sale of equipment obligations, and to pay for equipment.

(b) The net proceeds derived from the sale and leaseback of equipment made pursuant to this article shall be deposited in the fund.

SEC. 2. Section 6018.8 is added to the Revenue and Taxation Code, to read:

6018.8. The Department of Transportation is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to, passenger transportation vehicles, including, but not limited to, rail passenger cars, locomotives, other rail vehicles, bus and van fleets, and ferryboats, which it sells to and leases back from any person pursuant to Article 4 (commencing with Section 14060) of Chapter 1 of Part 5 of Division 3 of Title 2 of the Government Code.

SEC. 3. Section 6368.7 is added to the Revenue and Taxation Code, to read:

6368.7. There are exempted from the taxes imposed by this part,

the gross receipts from the sale and the storage, use, or other consumption of passenger transportation vehicles, including, but not limited to, rail passenger cars, locomotives, other rail vehicles, bus and van fleets, and ferryboats, sold or leased to the Department of Transportation by a person who received title to the property from the Department of Transportation pursuant to Article 4 (commencing with Section 14060) of Chapter 1 of Part 5 of Division 3 of Title 2 of the Government Code.

SEC. 4. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 5. It is the intent of the Legislature, in enacting Article 4 (commencing with Section 14060) of Chapter 1 of Part 5 of Division 3 of Title 2 of the Government Code, that the Department of Transportation first undertake a purchase and leaseback of rail passenger cars and locomotives to be used on the San Francisco peninsula commute line to determine the feasibility of this funding by a state agency. It is also the intent of the Legislature that all of the net proceeds derived from the sale and leaseback be used to provide for the acquisition and financing of rail passenger cars and locomotives. Other rail vehicles, bus and van fleets, or ferryboats may also be acquired and financed pursuant to that article.

SEC. 6. The amount necessary to implement Article 4 (commencing with Section 14060) of Chapter 1 of Part 5 of Division 3 of Title 2 of the Government Code is hereby appropriated to the Department of Transportation from the Transportation Planning and Development Account in the State Transportation Fund, with reimbursement to the account to be made from the Passenger Equipment Acquisition Fund upon the deposit of proceeds therein from the sale of equipment obligations and the sale and leaseback of rail passenger cars and locomotives.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that this act, which would provide the necessary statutory authority to take advantage of the safe harbor leasing provisions of the Internal Revenue Code relating to mass commuting vehicles, be operative prior to the termination dates of these provisions, and in time for the state to benefit from those provisions in acquiring critically needed mass transit vehicles, it is necessary that this act take effect immediately.

CHAPTER 1511

An act to add Section 6010.11 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 28, 1984. Filed with Secretary of State September 28, 1984.]

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

SECTION 1. Section 6010.11 is added to the Revenue and Taxation Code, to read:

6010.11. "Sale" and "purchase," for the purpose of this part, do not include any transfer of a qualified mass commuting vehicle pursuant to a safe harbor lease arrangement described in Section 168(f)(8) of the Internal Revenue Code of 1954, as amended by Section 208 of Public Law 97-248, Section 5 of Public Law 97-354, and Section 102 of Public Law 97-448, or pursuant to a sale-leaseback or lease-leaseback arrangement which includes a safe harbor lease arrangement. For purposes of this section, "qualified mass commuting vehicle" means a qualified mass commuting vehicle as defined in Section 103(b)(9) of the Internal Revenue Code of 1954.

SEC. 2. Section 1 of this act shall apply only to those transfers of a qualified mass commuting vehicle which occur within a county in which the board of supervisors of that county adopts a resolution that waives the county's claims for state reimbursement of sales and use tax revenues lost by it as a result of Section 1 of this act.

SEC. 3. It is the intent of the Legislature that Section 1 of this act provide qualified mass commuting vehicle operators with the maximum revenue benefits available under federal income tax provisions relating to safe harbor lease arrangements, consistent with the state's interest in minimizing its reimbursement of those operators for expenses incurred as the result of certain safety orders already mandated by the state. Therefore, Section 1 of this act shall be applicable only to a transfer of a qualified mass commuting vehicle in which the board of directors of the operator engaged in the transfer adopts a resolution that waives all past and future claims for state reimbursement which are related to Public Utilities Commission Decisions 90144 and 91091.

SEC. 4. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first calendar quarter after the effective date of this act.

CHAPTER 1512

An act to add Section 17052.2 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 28, 1984. Filed with Secretary of State September 28, 1984.]

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

SECTION 1. Section 17052.2 is added to the Revenue and Taxation Code, to read:

17052.2. (a) (1) There shall be allowed as a credit against the amount of "net tax" (as defined in Section 17039), an amount equal to the amount determined in paragraph (2).

(2) The amount of the credit allowed by this section shall be 20 percent of the cost incurred by the taxpayer of any pollution abatement equipment on premises in California which are owned by the taxpayer at the time of installation and which is installed as a result of the requirements of the Federal Water Pollution Control Act of 1972. The amount of costs to which the credit may be applied shall not exceed eighty thousand dollars ($80,000). The owner of the premises on which the pollution abatement equipment is installed may claim the tax credit for costs incurred. In order to qualify for the tax credit the taxpayer must be a metal finisher who has employed 100 or less employees and has not been a subsidiary, division, or affiliate of an entity engaged in other unrelated operations during the taxable year.

This credit shall be claimed in four equal annual installments commencing with the taxable year in which the pollution abatement equipment was installed and for three succeeding taxable years.

(3) The credit provided under this section shall be reduced by any grant provided by a public entity for such equipment.

(b) The credit shall be in lieu of any deduction under this part to which the taxpayer otherwise may be entitled, if any.

(c) The basis of any pollution abatement equipment for which a credit is allowed shall either be reduced to its salvage value at the end of its useful life, or reduced by the amount of the credit, whichever results in the lesser basis. The basis adjustment shall be made for the taxable year in which the equipment was installed.

(d) With the exception of a husband and wife, if there is more than one owner of a premises on which pollution abatement equipment is installed, each owner shall be eligible to receive the tax credit in proportion to his or her ownership interests in the premises. In the case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.

(e) The tax credit provided by this section shall not apply to trusts or estates subject to tax under this part.

(f) For purposes of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Owner" includes a duly recorded holder of legal title, a lessee with at least three years remaining on his or her lease, or a person purchasing premises under a contract of sale.

(3) "Premises" means land or buildings.

(4) "Pollution abatement equipment" means new identifiable equipment which is used in connection with a plant or other property to abate or control water pollution or contamination by removing, altering, disposing, storing, or preventing the creation or admission of pollutants, contaminants, wastes, or heat, and which does not significantly:

(A) Increase the output or capacity, extend the useful life, or reduce the total operating costs of such plant or other property (or any unit thereof), or

(B) Alter the nature of the manufacturing or production process or facility.

(5) A "metal finisher" is a person who is exclusively engaged in one or more of the following business activities with respect to metals:

(A) Electroplating.

(B) Powder coating.

(C) Galvanizing.

(D) Anodizing.

(E) Metalizing.

(F) Bumper recycling or electroforming.

(G) Metal plating on printed circuits.

(H) Enameling, buffing, or polishing in connection with any of the foregoing processes.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1513

An act relating to dental care plans, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1984. Filed with Secretary of State September 28, 1984.]

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

SECTION 1. There is hereby appropriated from the General Fund the sum of five hundred thousand dollars ($500,000) for allocation by the Controller to the Board of Administration of the Public Employees' Retirement System, the Department of Personnel Administration, and the California State University, to

meet the costs of dental care plan coverage authorized by Section 22953 of the Government Code.

SEC. 2. There is hereby appropriated from the General Fund the sum of two hundred ten thousand dollars ($210,000) to the Regents of the University of California to meet the costs of dental plan coverage for annuitants who have retired from university service who are not enrolled in a health insurance plan or a dental care plan but were eligible for enrollment in a health insurance plan or dental care plan at the time of separation for retirement, and who retired within 120 days of separation.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the provisions authorizing dental care plans for annuitants may become operative on July 1, 1984, as provided under existing law, and to provide the necessary funding for the 1984–85 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 1514

An act to amend Sections 21002.1, 21104, and 21153 of, and to add Sections 21001.1, 21005, 21081.5, 21082.2, 21092.1, 21094, 21166.1, 21167.6, 21167.8, and 21177 to, the Public Resources Code, relating to environmental control.

[Approved by Governor September 28, 1984. Filed with Secretary of State September 28, 1984.]

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

SECTION 1. Section 21001.1 is added to the Public Resources Code, to read:

21001.1. The Legislature further finds and declares that it is the policy of the state that projects to be carried out by public agencies be subject to the same level of review and consideration under this division as that of private projects required to be approved by public agencies.

SEC. 2. Section 21002.1 of the Public Resources Code is amended to read:

21002.1. In order to achieve the objectives set forth in Section 21002, the Legislature finds and declares that the following policy shall apply to the use of environmental impact reports prepared pursuant to this division:

(a) The purpose of an environmental impact report is to identify the significant effects of a project on the environment, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided.

(b) Each public agency shall mitigate or avoid the significant effects on the environment of projects it approves or carries out whenever it is feasible to do so.

(c) In the event that economic, social, or other conditions make it infeasible to mitigate one or more significant effects of a project on the environment, the project may nonetheless be approved or carried out at the discretion of a public agency, provided that the project is otherwise permissible under applicable laws and regulations.

(d) In applying the policies of subdivisions (b) and (c) to individual projects, the responsibility of a public agency which is functioning as a lead agency shall differ from that of a public agency which is functioning as a responsible agency. A public agency functioning as a lead agency shall have responsibility for considering the effects, both individual and collective, of all activities involved in a project. A public agency functioning as a responsible agency shall have responsibility for considering only the effects of those activities involved in a project, which it is required by law to carry out or approve. This subdivision applies only to decisions by a public agency to carry out or approve a project and does not otherwise affect the scope of the comments the agency may wish to make pursuant to Section 21104 or 21153.

SEC. 3. Section 21005 is added to the Public Resources Code, to read:

21005. The Legislature finds and declares that it is the policy of the state that noncompliance with the information disclosure provisions of this division which precludes relevant information from being presented to the public agency or with substantive requirements of this division may constitute a prejudicial abuse of discretion within the meaning of Sections 21168 and 21168.5, regardless of whether a different outcome would have resulted if the public agency had complied with those provisions.

The Legislature further finds and declares that in undertaking judicial review pursuant to Sections 21168 and 21168.5, courts shall continue to follow the established principle that there is no presumption that error is prejudicial.

SEC. 5. Section 21081.5 is added to the Public Resources Code, to read:

21081.5. In making the findings required by subdivision (c) of Section 21081, the public agency shall base its findings on substantial evidence in the record.

SEC. 6. Section 21082.2 is added to the Public Resources Code, to read:

21082.2. (a) The lead agency shall determine whether a project may have a significant effect on the environment based on substantial evidence in the record. The existence of public controversy over the environmental effects of a project shall not require preparation of an environmental impact report if there is no substantial evidence before the agency that the project may have a

significant effect on the environment.

(b) Statements in an environmental impact report and comments with respect to an environmental impact report shall not be deemed determinative of whether the project may have a significant effect on the environment.

SEC. 7. Section 21092.1 is added to the Public Resources Code, to read:

21092.1. When significant new information is added to an environmental impact report after notice has been given pursuant to Section 21092 and consultation has occurred pursuant to Sections 21104 and 21153, but prior to certification, the public agency shall give notice again pursuant to Section 21092, and consult again pursuant to Sections 21104 and 21153 before certifying the environmental impact report.

SEC. 8. Section 21094 is added to the Public Resources Code, to read:

21094. (a) Where a prior environmental impact report has been prepared for a program, plan, policy, or ordinance, the lead agency for a later project that meets the requirements of this section may examine significant effects of the later project upon the environment by using a tiered environmental impact report, except that the report need not examine those effects which the lead agency determines were either (1) mitigated or avoided pursuant to subdivision (a) of Section 21081 as a result of the prior environmental impact report, or (2) examined at a sufficient level of detail in the prior environmental impact report to enable those effects to be mitigated or avoided by site specific revisions, the imposition of conditions, or by other means in connection with the approval of the later project.

(b) This section applies only to a later project which the lead agency finds (1) is consistent with the previously approved program, plan, policy, or ordinance, (2) is consistent with any applicable local land use plan and zoning of the city and county in which the later project would be located, and (3) is not subject to Section 21166.

(c) For purposes of compliance with this section, an initial study shall be prepared to assist the agency in making the determinations and findings required by this section. The initial study shall analyze whether the later project may cause significant effects on the environment that were not examined in the prior environmental impact report.

(d) All public agencies which propose to carry out or approve the later project may utilize the prior environmental impact report and the environmental impact report on the later project to fulfill the requirements of Section 21081.

(e) When tiering is used pursuant to this section, an environmental impact report prepared for a later project shall refer to the prior environmental impact report and state where a copy of the prior environmental impact report may be examined.

SEC. 9. Section 21104 of the Public Resources Code is amended

to read:

21104. Prior to completing an environmental impact report, the state lead agency shall consult with, and obtain comments from, each responsible agency and any public agency which has jurisdiction by law with respect to the project, and may consult with any person who has special expertise with respect to any environmental impact involved.

The state lead agency shall consult with, and obtain comments from, the State Air Resources Board in preparing an environmental impact report on a highway or freeway project, as to the air pollution impact of the potential vehicular use of the highway or freeway.

A responsible agency or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation.

SEC. 9.5. Section 21104 of the Public Resources Code is amended to read:

21104. Prior to completing an environmental impact report, the state lead agency shall consult with, and obtain comments from, each responsible agency and any public agency which has jurisdiction by law with respect to the project, and may consult with any person who has special expertise with respect to any environmental impact involved. In the case of a project described in subdivision (c) of Section 21065, the state lead agency shall, upon the request of the applicant, provide for early consultation to identify the range of actions, alternatives, mitigation measures, and significant effects to be analyzed in depth in the environmental impact report. The state lead agency may consult with persons identified by the applicant which the applicant believes will be concerned with the environmental effects of the project and may consult with members of the public who have made a written request to be consulted on the project. A request by the applicant for early consultation shall be made not later than 30 days after the determination required by Section 21080.1 with respect to the project.

The state lead agency shall consult with, and obtain comments from, the State Air Resources Board in preparing an environmental impact report on a highway or freeway project, as to the air pollution impact of the potential vehicular use of the highway or freeway.

A responsible agency or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation.

SEC. 10. Section 21153 of the Public Resources Code is amended to read:

21153. Prior to completing an environmental impact report, every local lead agency shall consult with, and obtain comments from, each responsible agency and any public agency which has

jurisdiction by law with respect to the project, and may consult with any person who has special expertise with respect to any environmental impact involved.

A responsible agency or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation.

SEC. 10.5. Section 21153 of the Public Resources Code is amended to read:

21153. Prior to completing an environmental impact report, every local lead agency shall consult with, and obtain comments from, each responsible agency and any public agency which has jurisdiction by law with respect to the project, and may consult with any person who has special expertise with respect to any environmental impact involved. In the case of a project described in subdivision (c) of Section 21065, the local lead agency shall, upon the request of the applicant, provide for early consultation to identify the range of actions, alternatives, mitigation measures, and significant effects to be analyzed in depth in the environmental impact report. The local lead agency may consult with persons identified by the applicant which the applicant believes will be concerned with the environmental effects of the project and may consult with members of the public who have made written request to be consulted on the project. A request by the applicant for early consultation shall be made not later than 30 days after the determination required by Section 21080.1 with respect to the project. The local lead agency may charge and collect from the applicant a fee not to exceed the actual costs of the consultations.

A responsible agency or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation.

SEC. 11. Section 21166.1 is added to the Public Resources Code, to read:

21166.1. The decision of a lead agency to prepare an environmental impact report with respect to environmental impacts within a geographic area or for a group of projects shall not be a basis for determining that an environmental document prepared for an individual project within that area or group is inadequate.

SEC. 12. Section 21167.6 is added to the Public Resources Code, to read:

21167.6. Notwithstanding any other provision of law, in all actions brought pursuant to Section 21167, except those involving the Public Utilities Commission:

(a) At the time the action is filed, the petitioner shall file a request that the respondent public agency prepare the record of proceedings relating to the subject of the action. The request, together with the

petition, shall be served upon the public agency not later than 10 business days after the action is filed.

(b) The public agency shall prepare and certify the record of proceedings not later than 60 days after the request specified in subdivision (a) is served upon the public agency. The parties shall pay any costs or fees imposed for the preparation of the record of proceedings in conformance with any law or rule of court. The petitioner may elect to prepare the record of proceedings or the parties may agree to an alternative method of preparation of the record of proceedings, subject to certification of its accuracy by the public agency, within the time limit specified in this subdivision.

(c) The time limit established by subdivision (b) may be extended only upon stipulation of all parties who have been properly served in the action or upon order of the court. Extensions shall be liberally granted by the court when the size of the record of proceedings renders infeasible compliance with the time limit specified in subdivision (b). There is no limit on the number of extensions which may be granted by the court, but no single extension shall exceed 60 days unless the court determines that a longer extension is in the public interest.

(d) The clerk of the superior court shall prepare and certify the clerk's transcript on appeal not later than 60 days after the notice designating the papers or records to be included in the clerk's transcript is filed with the superior court, provided that the party or parties pay any costs or fees for preparation of the clerk's transcript imposed in conformance with any law or rules of court. Nothing contained in this subdivision shall preclude election to proceed pursuant to Rule 5.1 of the California Rules of Court.

(e) Extensions of the period for the filing of any brief on appeal may be allowed only by stipulation of the parties or by order of the court for good cause shown. Extensions shall be limited to one 30-day extension for the preparation of an opening brief, and one 30-day extension for the preparation of a responding brief, except that the court may grant a longer extension or additional extensions if it determines that there is a substantial likelihood of settlement that would avoid the necessity of completing the appeal.

(f) At the completion of the filing of briefs, the appellant shall notify the court of completion of the filing of briefs, whereupon the clerk of the reviewing court shall set the appeal for hearing on the first available calendar date.

SEC. 13. Section 21167.8 is added to the Public Resources Code, to read:

21167.8. (a) Not later than 20 days after service upon a public agency of a petition or complaint brought to pursuant to Section 21167, the public agency shall file with the court a notice setting forth the time and place at which all parties shall meet and attempt to settle the litigation. The meeting shall be scheduled and held not later than 45 days after the date of service of the petition or complaint upon the public agency. The notice of the settlement

meeting shall be served by mail upon the counsel for each party. If the public agency does not know the identity of counsel for any party, the notice shall be served by mail upon the party for whom counsel is not known.

(b) The petitioner or plaintiff shall serve by mail on all parties a presettlement statement not less than five days in advance of the meeting. The statement shall include, but not be limited to, both of the following:

(1) A concise description of the case, including a brief procedural history, and all the facts material to consideration of the issues presented by the litigation.

(2) The anticipated issues to be raised in the litigation. Counsel shall confer with their clients in advance regarding settlement and shall be prepared to negotiate a settlement whenever reasonably possible.

(c) At the time and place specified in the notice filed with the court, the parties shall meet and attempt in good faith to settle the litigation and the dispute which forms the basis of the litigation. The settlement meeting discussions shall be comprehensive in nature and shall focus on the legal issues raised by the parties concerning the project that is the subject of the litigation.

(d) The settlement meeting may be continued from time to time without postponing or otherwise delaying other applicable time limits in the litigation. The settlement meeting is intended to be conducted concurrently with any judicial proceedings.

(e) After the settlement procedure is completed, the parties shall jointly prepare, sign, and file with the court a settlement statement including, but not limited to, all of the following:

(1) The legal and factual contentions raised by each party.

(2) The contentions that were settled or otherwise agreed upon and the nature of that agreement.

(3) The efforts made by each party to settle the unresolved issues.

(4) The list of participants in the settlement proceedings.

(f) If the litigation is not settled, the court, in its discretion, may, or at the request of any party shall, schedule a further settlement conference before a judge of the superior court. If the petition or complaint is later heard on its merits, the judge hearing the matter shall not be the same judge conducting the settlement conference, except in counties with only one judge of the superior court.

(g) Failure of any party who was notified pursuant to subdivision (a) to participate in the process described in this section, without good cause, may result in an imposition of sanctions by the court. The failure of the petitioner or plaintiff to participate in the process described in this section, without good cause, shall result in dismissal with prejudice of the action.

SEC. 14. Section 21177 is added to the Public Resources Code, to read:

21177. (a) No action may be brought pursuant to Section 21167 unless the alleged grounds for noncompliance with this division were

presented to the public agency orally or in writing by any person.

(b) No person shall maintain an action or proceeding unless that person objected to the approval of the project orally or in writing.

(c) This section does not preclude any organization formed after the approval of a project from maintaining an action pursuant to Section 21167 if a member of that organization has complied with subdivision (b).

(d) This section does not apply to the Attorney General.

(e) This section does not apply when there was no public hearing or other opportunity for members of the public to raise objections prior to the approval of the project or when the public agency failed to give the notice required by law.

SEC. 14.5. It is the intent of the Legislature in adding Section 21177 to the Public Resources Code in Section 14 of this act to codify the exhaustion of administrative remedies doctrine. It is not the intent to limit or modify any exception to the doctrine of administrative remedies contained in case law.

SEC. 15. Section 9.5 of this bill incorporates amendments to Section 21104 of the Public Resources Code proposed by both this bill and AB 2411. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 21104 of the Public Resources Code, and (3) this bill is enacted after AB 2411, in which case Section 9 of this bill shall not become operative.

SEC. 16. Section 10.5 of this bill incorporates amendments to Section 21153 of the Public Resources Code proposed by both this bill and AB 2411. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 21153 of the Public Resources Code, and (3) this bill is enacted after AB 2411, in which case Section 10 of this bill shall not become operative.

SEC. 17. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 18. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1515

An act to add Sections 35150.3, 54790.5, and 56250.3 to the Government Code, relating to annexation.

[Approved by Governor September 28, 1984. Filed with Secretary of State September 28, 1984.]

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

SECTION 1. Section 35150.3 is added to the Government Code, to read:

35150.3. The commission shall not impose a condition for the provision of services by the annexing city to an area which has not been placed within that city's adopted sphere of influence as defined in Section 54774, unless that condition would mitigate effects which are a direct result of the annexation.

In the case of any annexation proposal for which a certificate of completion was not recorded prior to January 1, 1985, a condition imposed thereon which does not comply with the requirements of this section is null and void and shall not affect the validity of, or terminate the annexation proceedings.

SEC. 2. Section 54790.5 is added to the Government Code, to read:

54790.5. The commission shall not impose a condition for the provision of services by the annexing city to an area which has not been placed within that city's adopted sphere of influence as defined in Section 54774, unless that condition would mitigate effects which are a direct result of the annexation.

In the case of any annexation proposal for which a certificate of completion was not recorded prior to January 1, 1985, a condition imposed thereon which does not comply with the requirements of this section is null and void and shall not affect the validity of, or terminate the annexation proceedings.

SEC. 3. Section 56250.3 is added to the Government Code, to read:

56250.3. The commission shall not impose a condition for the provision of services by the annexing city to an area which has not been placed within that city's adopted sphere of influence as defined in Section 54774, unless that condition would mitigate effects which are a direct result of the annexation.

In the case of any annexation proposal for which a certificate of completion was not recorded prior to January 1, 1985, a condition imposed thereon which does not comply with the requirements of this section is null and void and shall not affect the validity of, or terminate the annexation proceedings.

SEC. 4. Sections 1, 2, and 3 of this act do not constitute a change in, but are declaratory of, existing law.

CHAPTER 1516

An act to amend Section 6254 of the Government Code, and to amend Sections 1250.8 and 1254 of the Health and Safety Code, and to amend Section 14499.5 of the Welfare and Institutions Code, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1984. Filed with Secretary of State September 28, 1984.]

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

SECTION 1. Section 6254 of the Government Code is amended to read:

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

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

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, until the pending litigation or claim has been finally adjudicated or otherwise settled.

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

(d) Contained in or related to:

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

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

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

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

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

(f) Records of complaints to, or investigations conducted by, or

records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any such investigatory or security files compiled by any other state or local police agency, or any such investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes, except that state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, vandalism, vehicle theft, or a crime of violence as defined by subdivision (b) of Section 13960, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation; provided, however, that nothing in this division shall require the disclosure of that portion of those investigative files which reflect the analysis or conclusions of the investigating officer.

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

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

(2) The time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date and location of occurrence, the time and date of the report, the name, age and current address of the victim, except that the address of the victim of any crime defined by Section 261, 264, 264.1, 273a, 273d, 286, 288, 288a, or 289 of the Penal Code shall not be disclosed, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or

weapons involved.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code.

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

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

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

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

(*l*) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's legal affairs secretary, provided that public records shall not be transferred to the custody of the Governor's legal affairs secretary to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel.

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

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

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1, Chapter 10.5 (commencing with Section 3525) of Division 4 of Title 1, and Chapter 12 (commencing with Section 3560) of Division

4 of Title 1, which reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or which provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under the above chapters. Nothing in this subdivision shall be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

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

Contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. In the event that a contract for inpatient services which is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

(r) Records of Native American graves, cemeteries, and sacred places maintained by the Native American Heritage Commission.

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

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

Nothing in this section is to be construed as preventing any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act.

SEC. 2. Section 1250.8 of the Health and Safety Code is amended to read:

1250.8. (a) Notwithstanding subdivision (a) of Section 437.10, the state department, upon application of a general acute care hospital which meets all the criteria of subdivision (b), and other applicable requirements of licensure, shall issue a single consolidated license to a general acute care hospital which includes more than one

physical plant maintained and operated on separate premises or which has multiple licenses for a single health facility on the same premises. A single consolidated license shall not be issued where the separate physical plant is a skilled nursing facility or an intermediate care facility located on premises which are not adjacent to the general acute care hospital unless the hospital is exempt from the requirements of subdivision (b) of Section 1254.

(b) The issuance of a single consolidated license shall be based on the following criteria:

(1) There is a single governing body for all of the facilities maintained and operated by the licensee.

(2) There is a single administration for all of the facilities maintained and operated by the licensee.

(3) There is a single medical staff for all of the facilities maintained and operated by the licensee, with a single set of bylaws, rules, and regulations, which prescribe a single committee structure.

(4) The physical plants maintained and operated by the licensee which are to be covered by the single consolidated license are located not more than 15 miles apart. However, the director may issue a single consolidated license to a general acute care hospital which maintains and operates two or more physical plants which are located beyond 15 miles if all of the following exist:

(A) One or more physical plants are located in a rural area, as defined by regulations of the director.

(B) The director finds, after consultation with the Director of the Office of Statewide Health Planning and Development, that the issuance of the single consolidated license for the general acute care hospital would not significantly impair the operation of Part 1.5 (commencing with Section 437) of Division 1.

(C) The director finds that the licensee can comply with the requirements of licensure and maintain the provision of quality care, and adequate administrative and professional supervision.

(5) If the proposed consolidation includes a skilled nursing facility or an intermediate care facility located on premises which are not adjacent to the general acute care hospital, there is a shortage of skilled nursing or intermediate care beds in the service area served by the hospital as demonstrated in the latest Statewide Health Facilities and Services Plan.

(6) If the proposed consolidation includes a skilled nursing facility or an intermediate care facility located on premises which are not adjacent to the general acute care hospital, the state department has developed adequate utilization controls to assure that patients needing only freestanding skilled nursing or intermediate care are not inappropriately placed in a hospital based skilled nursing or intermediate care bed.

(c) In issuing the single consolidated license, the state department shall specify the location of each supplemental service and the location of the number and category of beds provided by the licensee.

(d) To the extent required by Part 1.5 (commencing with Section 437) of Division 1, a general acute care hospital which has been issued a single consolidated license:

(1) Shall not transfer from one facility to another a special service described in Section 1255 without first obtaining a certificate of need.

(2) Shall not transfer, in whole or in part, from one facility to another, a supplemental service, as defined in regulations of the director pursuant to this chapter, without first obtaining a certificate of need, unless the licensee, 30 days prior to the relocation, notifies the Office of Statewide Health Planning and Development, the applicable health systems agency, and the state department of the licensee's intent to relocate the supplemental service, and includes with this notice a cost estimate, certified by a person qualified by experience or training to render such estimates, which estimates that the cost of the transfer will not exceed the capital expenditure threshold established by the Office of Statewide Health Planning and Development pursuant to Section 437.10.

(3) Shall not transfer beds from one facility to another facility, without first obtaining a certificate of need unless, 30 days prior to the relocation, the licensee notifies the Office of Statewide Health Planning and Development, the applicable health systems agency, and the state department of the licensee's intent to relocate health facility beds, and includes with this notice both of the following:

(A) A cost estimate, certified by a person qualified by experience or training to render such estimates, which estimates that the cost of the relocation will not exceed the capital expenditure threshold established by the Office of Statewide Health Planning and Development pursuant to Section 437.10.

(B) The identification of the number, classification, and location of the health facility beds in the transferor facility and the proposed number, classification, and location of the health facility beds in the transferee facility.

Except as otherwise permitted in Part 1.5 (commencing with Section 437) of Division 1, or as authorized in an approved certificate of need pursuant to that part, health facility beds transferred pursuant to this section shall be used in the transferee facility in the same bed classification as defined in Section 1250.1, as the beds were classified in the transferor facility.

Health facility beds transferred pursuant to this section shall not be transferred back to the transferor facility for two years from the date of the transfer, regardless of cost, without first obtaining a certificate of need pursuant to Part 1.5 (commencing with Section 437) of Division 1.

(e) All transfers pursuant to subdivision (d) shall satisfy all applicable requirements of licensure and shall be subject to the written approval, if required, of the state department. The state department may adopt regulations which are necessary to implement the provisions of this section. These regulations may include a requirement that each facility of a health facility subject to

a single consolidated license have an onsite full-time or part-time administrator.

(f) As used in this section, "facility" means any physical plant operated or maintained by a health facility subject to a single, consolidated license issued pursuant to this section.

(g) For purposes of selective provider contracts negotiated under the Medi-Cal program, the treatment of a health facility with a single consolidated license issued pursuant to this section shall be subject to negotiation between the health facility and the California Medical Assistance Commission. A general acute care hospital which is issued a single consolidated license pursuant to this section may, at its option, receive from the state department a single Medi-Cal program provider number or separate Medi-Cal program provider numbers for one or more of the facilities subject to the single consolidated license. Irrespective of whether the general acute care hospital is issued one or more Medi-Cal provider numbers, the state department may require the hospital to file separate cost reports for each facility pursuant to Section 14170 of the Welfare and Institutions Code.

(h) For purposes of the Annual Report of Hospitals required by regulations adopted by the state department pursuant to this part, the state department and the Office of Statewide Health Planning and Development may require reporting of bed and service utilization data separately by each facility of a general acute care hospital issued a single consolidated license pursuant to this section.

SEC. 3. Section 1254 of the Health and Safety Code is amended to read:

1254. (a) The state department shall inspect and license health facilities. The state department shall license general acute care hospitals, acute psychiatric hospitals, skilled nursing facilities, intermediate care facilities, and special hospitals to provide their respective basic services specified in Section 1250. Except as provided in Section 1253, the state department shall inspect and approve a general acute care hospital to provide special services as specified in Section 1255. The state department shall develop and adopt regulations to implement the provisions contained in this section.

(b) Upon approval, the state department shall issue a separate license for the provision of the basic services enumerated in subdivision (c) or (d) of Section 1250 whenever these basic services are to be provided by an acute care hospital, as defined in subdivision (a), (b), or (f) of that section, where the services enumerated in subdivision (c) or (d) of Section 1250 are to be provided in any separate freestanding facility, whether or not the location of the separate freestanding facility is contiguous to the acute care hospital. The same requirement shall apply to any new freestanding facility constructed for the purpose of providing basic services, as defined in subdivision (c) or (d) of Section 1250, by any acute care hospital on or after January 1, 1984.

(c) (1) Those beds licensed to an acute care hospital which, prior to January 1, 1984, were separate freestanding beds and were not part of the physical structure licensed to provide acute care, and which beds were licensed to provide those services enumerated in subdivision (c) or (d) of Section 1250, are exempt from the requirements of subdivision (b).

(2) All beds licensed to an acute care hospital and located within the physical structure in which acute care is provided are exempt from the requirements of subdivision (b) irrespective of the date of original licensure of the beds, or the licensed category of the beds.

(3) All beds licensed to an acute care hospital owned and operated by the State of California or any other public agency are exempt from the requirements of subdivision (b).

(4) All beds licensed to an acute care hospital in a rural area as defined by Chapter 1010, of the Statutes of 1982, are exempt from the requirements of subdivision (b), except where there is a freestanding skilled nursing facility or intermediate care facility which has experienced an occupancy rate of 95 percent or less during the past 12 months within a 25-mile radius or which may be reached within 30 minutes using a motor vehicle.

(5) All beds licensed to an acute care hospital which meet the criteria for designation within peer group six or eight, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982, and published by the California Health Facilities Commission, and all beds in hospitals which have fewer than 76 licensed acute care beds and which are located in a Census Designation Place of 15,000 or less population, are exempt from the requirements of subdivision (b), except where there is a free-standing skilled nursing facility or intermediate care facility which has experienced an occupancy rate of 95 percent or less during the past 12 months within a 25-mile radius or which may be reached within 30 minutes using a motor vehicle.

(6) All beds licensed to an acute care hospital which has had a certificate of need approved by a health systems agency on or before July 1, 1983, are exempt from the requirements of subdivision (b).

(7) All beds licensed to an acute care hospital are exempt from the requirements of subdivision (b), if reimbursement from the Medi-Cal program for beds licensed for the provision of services enumerated in subdivision (c) or (d) of Section 1250 and not otherwise exempt does not exceed the reimbursement which would be received if the beds were in a separately licensed facility.

(d) Except as provided in Section 1253, the state department shall inspect and approve a general acute care hospital to provide special services as specified in Section 1255. The state department shall develop and adopt regulations to implement the provisions contained in this section.

SEC. 4. Section 14499.5 of the Welfare and Institutions Code is amended to read:

14499.5. (a) In carrying out the intent of this article, the director

shall contract for the operation of one local pilot program. Special consideration shall be given to approving a program contracted through county government in Santa Barbara County.

(b) The establishment of a pilot program pursuant to this section shall be contingent upon the availability of state and federal funding. The program shall include the following components:

(1) Local authority for administration, fiscal management, and delivery of services, but not including eligibility determination.

(2) Physician case management.

(3) Cost containment through provider incentives and other means.

(c) The program for the pilot project shall include a plan and budget for delivery of services, administration, and evaluation. During the first year of the pilot program, the amount of the state contract shall equal 95 percent of total projected Medi-Cal expenditures for delivery of services and for administration based on fee-for-service conditions in the program county. During the remaining years of the pilot project, Medi-Cal expenditures in the program county shall be no more than 100 percent of total projected expenditures for delivery of services and for administration based on any one or a combination of the following:

(1) Relevant prior fee-for-service Medi-Cal experience in the program county.

(2) The fee-for-service Medi-Cal experience in comparable counties or groups of counties. The projected total expenditure shall be determined annually according to an acceptable actuarial process. The data elements used by the department shall be shared with the proposed contractor.

(d) The director shall accept or reject the proposal within 30 days after the date of receipt. If a decision is made to reject the proposal, the director shall set forth the reasons for this decision in writing. Upon approval of the proposal, a contract shall be written within 60 days. After signature by the local contractor, the State Department of Health Services, the Department of General Services, and the Department of Finance shall execute the contract within 60 days.

(e) The director shall seek the necessary state and federal waivers to enable operation of the program. If the federal waivers for delivery of services under this plan are not granted, the department is under no obligation to contract for implementation of the program.

(f) For purposes of Section 1343 of the Health and Safety Code, the Santa Barbara County Special Health Care Authority shall be considered to be a county-operated pilot program contracting with the State Department of Health Services pursuant to this article, and notwithstanding any other provision of law, during the period that this contract is in effect, the contractor shall be exempt from the provisions of the Knox-Keene Health Care Service Plan Act of 1975, Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, relative to the services provided to

Medi-Cal beneficiaries under the terms and provisions of the pilot program.

(g) Nothing in this section shall be construed to include dental services within the services provided in this pilot program.

(h) Any federal demonstration funding for this pilot program shall be made available to the county within 60 days upon notification of the award without the state retaining any portion not previously specified in the grant application as submitted.

(i) An independent evaluation of the program shall be conducted and a report submitted to the Legislature and the director by June 30, 1987. The cost of the evaluation shall be borne by grants to be obtained jointly by the department and the local contractor. This evaluation and report shall include, but is not limited to, the following:

(1) An assessment of the cost of medical services as compared to the cost of the existing Medi-Cal fee-for-service delivery mode.

(2) An assessment of utilization levels of specialist and emergency services.

(3) An assessment of the quality of care.

(4) Recommendations for future policy on delivery of services.

(j) This section shall remain in effect only until June 30, 1987, and as of that date is repealed, unless a later enacted statute which is chaptered before June 30, 1987, deletes or extends that date.

SEC. 5. Section 2 of this act shall only become operative if Senate Bill 1558 of the 1983–84 Regular Session is not enacted, and in that case Section 2 of this act shall become operative January 1, 1985.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for changes to the Medi-Cal program to take place as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 1517

An act to amend Sections 15815 and 15816 of, and to add Chapter 3.6 (commencing with Section 15820.15) to Part 10b of Division 3 of, Title 2 of the Government Code, relating to organized research facilities.

[Approved by Governor September 28, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 15815 of the Government Code is amended to read:

15815. (a) The plans and specifications of any public building

constructed pursuant to this part shall be prepared by the Department of General Services and the board shall reimburse the department for the costs of such services from the funds available for the purpose. Any public building constructed under the provisions of this part shall be constructed in accordance with the provisions of the State Contract Act.

(b) Subdivision (a) shall not apply to any public building constructed for lease-purchase to the Regents of the University of California by the board, pursuant to Chapter 3.5 (commencing with Section 15820) or Chapter 3.6 (commencing with Section 15820.15) of this part. However, any public building shall be constructed under the provisions of Chapter 7 (commencing with Section 92660) of Part 57 of the Education Code.

SEC. 2. Section 15815 of the Government Code is amended to read:

15815. (a) The plans and specifications of any public building constructed pursuant to this part shall be prepared by the Department of General Services and the board shall reimburse the department for the costs of such services from the funds available for the purpose. Any public building constructed under the provisions of this part shall be constructed in accordance with the provisions of the State Contract Act.

(b) Subdivision (a) shall not apply to any public building constructed for lease-purchase to the Regents of the University of California by the board, pursuant to Chapter 3.5 (commencing with Section 15820), Chapter 3.6 (commencing with Section 15820.15), or Chapter 3.7 (commencing with Section 15820.30) of this part. However, any public building shall be constructed under the provisions of Chapter 7 (commencing with Section 92660) of Part 57 of the Education Code.

SEC. 3. Section 15816 of the Government Code is amended to read:

15816. (a) When any public building has been acquired or constructed by the board, and the revenues, rentals, or receipts from the operation of such public building are no longer required or pledged for the payment of principal or interest on any of the certificates or revenue bonds of the board undertaken under this part, the board shall forthwith notify the Department of General Services of that fact, and thereafter such public building shall be under the jurisdiction of, and operated and maintained by, the Department of General Services.

(b) Subdivision (a) shall not apply to any public building constructed for lease-purchase to the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Maritime Academy, or any community college district by the board, pursuant to Chapter 3.5 (commencing with Section 15820) or Chapter 3.6 (commencing with Section 15820.15) of this part. When the revenues, rentals, or receipts from the operation of any such public building are no longer

required or pledged for the payment of principal or interest on the certificates or revenue bonds of the board undertaken to finance such public building, title to such public building shall vest in the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Maritime Academy, or any community college district.

(c) If at any time funds are available by law to retire any certificates or revenue bonds issued to defray the cost of any public building, such funds shall be applied to the redemption of certificates or revenue bonds secured by the rentals and revenues from said public building.

SEC. 4. Section 15816 of the Government Code is amended to read:

15816. (a) When any public building has been acquired or constructed by the board, and the revenues, rentals, or receipts from the operation of such public building are no longer required or pledged for the payment of principal or interest on any of the certificates or revenue bonds of the board undertaken under this part, the board shall forthwith notify the Department of General Services of that fact, and thereafter such public building shall be under the jurisdiction of, and operated and maintained by, the Department of General Services.

(b) Subdivision (a) shall not apply to any public building constructed for lease-purchase to the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Maritime Academy, or any community college district by the board, pursuant to Chapter 3.5 (commencing with Section 15820), Chapter 3.6 (commencing with Section 15820.15), or Chapter 3.7 (commencing with Section 15820.30) of this part. When the revenues, rentals, or receipts from the operation of any such public building are no longer required or pledged for the payment of principal or interest on the certificates or revenue bonds of the board undertaken to finance such public building, title to such public building shall vest in the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Maritime Academy, or any community college district.

(c) If at any time funds are available by law to retire any certificates or revenue bonds issued to defray the cost of any public building, such funds shall be applied to the redemption of certificates or revenue bonds secured by the rentals and revenues from said public building.

SEC. 5. Chapter 3.6 (commencing with Section 15820.15) is added to Part 10b of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 3.6. RESEARCH FACILITIES IN THE UNIVERSITY OF CALIFORNIA

Article 1. Legislative Findings and Intent

15820.15. The Legislature finds and declares that the University of California, recognized as being the world's finest public university, requires assistance in the furtherance of its research mission. To this end, the Legislature finds that it is in the public interest to construct, renovate, equip, and staff facilities for research use. The areas of research may include, but are not limited to, engineering, computer science, biological sciences, and related basic sciences. These facilities may be leased or leased-purchased by the University of California.

It is the intent of the Legislature that the cost of any project authorized by statute pursuant to this chapter be considered an expenditure of state funds in the fiscal year in which payments are made to the State Public Works Board under the terms of the lease-purchase agreement for facilities.

It is the intent of the Legislature that the University of California shall encourage matching funds from industry for research facilities, equipment, and projects.

The Legislature finds that providing facilities for research will better enable the university to secure federal research funding.

Furthermore, the university is requested to maximize federal funding for research.

Article 2. Research Facilities

15820.16. (a) The State Public Works Board is authorized to finance the construction, renovation, and equipping of research facilities on a site or sites within the University of California.

(b) The board shall lease-purchase to the Regents of the University of California any public building or facility constructed or renovated pursuant to this chapter. The terms and the amount of the lease-purchase shall be determined by mutual agreement of the parties. The agreement shall provide that the public building or facility shall be utilized for research. The board shall contract with the lessee for all activities required to plan, construct, equip, and renovate these facilities.

Article 3. Construction Financing

15820.18. (a) The board may issue certificates pursuant to Chapter 4 (commencing with Section 15821) or revenue bonds, negotiable notes, or negotiable bond anticipation notes pursuant to Chapter 5 (commencing with Section 15830) to finance the cost of construction or renovation and the equipping of the public buildings or facilities authorized by this chapter.

(b) The revenues, rentals, or receipts from the public buildings or facilities and equipment authorized by this chapter shall be pledged to the payment of the principal of, and the interest on, the certificates, revenue bonds, notes, or anticipation notes issued to finance the construction or renovation and the equipping of those public buildings or facilities.

(c) No certificates, revenue bonds, notes, or anticipation notes shall be issued, and no construction or renovation and the equipping for any public building or facility authorized by this chapter shall be commenced or purchased, unless the Legislature, by statute, authorizes the total amount of certificates, revenue bonds, notes or anticipation notes that may be issued to finance that public building or facility and expressly approves the construction thereof.

At any legislative hearing wherein a proposed statute described in this subdivision is considered, there shall be included, but not limited to, in that consideration an examination of the total interest cost of the issue.

Article 4. Support for Research Facilities

15820.20. In order to properly establish facilities for research within the University of California, it is the Legislature's intent to authorize, through the Budget Act, funding for the following:

(a) Planning grants for the purpose of developing detailed project plans for research facilities.

(b) Faculty salary supplements for research activities during the summer.

(c) Professional research scholars, graduate research assistantships, graduate fellowships, postdoctoral fellowships, support research staff, and related support for research projects.

(d) Equipment.

SEC. 6. Sections 2 and 4 of this act shall become operative only if Senate Bill 1905 is chaptered, in which case Sections 1 and 3 of this act shall not become operative.

CHAPTER 1518

An act to add Section 14006.2 to the Welfare and Institutions Code, relating to health.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. It is the intent of the Legislature in enacting this act to reduce the number of situations in which a misunderstanding of the Medi-Cal Act, as it applies to nursing home costs, causes either

the unnecessary destitution of the entire family, or a dissolution of marriage unnecessarily carried out to prevent destitution.

SEC. 2. Section 14006.2 is added to the Welfare and Institutions Code, to read:

14006.2. (a) In determining the eligibility of a married individual, pursuant to Section 14005.4 or 14005.7, who, in accordance with Title XIX of the federal Social Security Act and regulations adopted pursuant thereto, is considered to be living separately from his or her spouse, the individual shall be considered to have made a transfer of resources for full and adequate consideration under Section 14006 or 14015 by reason of either of the following:

(1) Having entered into a written agreement with his or her spouse dividing their community property into equal shares of separate property. Property so agreed to be separate property shall be considered by the department to be the separate property of the spouse who, pursuant to the agreement, is the owner of the property. Only in cases in which separate property owned by one spouse is actually made available to the other spouse, may the department count the separate property in the eligibility determination of the nonowner spouse.

(2) Having transferred to his or her spouse all of his or her interest in a home, whether the transfer was made before or after the individual became a resident in a skilled nursing facility or an intermediate care facility in accordance with and to the extent permitted by Title XIX of the federal Social Security Act and regulations promulgated pursuant thereto.

(b) The department shall furnish to all Medi-Cal applicants a statement in writing advising them that, to the extent permitted by Section 14006.2 and federal law, (1) in the case of an individual who is an inpatient in a skilled nursing facility, intermediate care facility or other medical institution, if the individual or the individual's conservator transferred to the individual's spouse all of the interest in a home, the individual shall not be considered ineligible for Medi-Cal by reason of the transfer; and that (2) if the individual and the individual's spouse execute a written interspousal agreement which divides and transmutes community property into equal shares of separate property, the separate property of the individual's spouse shall not be considered available to the individual and need not be spent by the spouse for the individual's care in a skilled nursing facility, intermediate care facility or other medical institution.

SEC. 3. The State Director of Health Services shall, within one year of the operative date of this act, adopt regulations implementing the provisions of this act. The regulations adopted by the director may also establish procedures by which the department may determine whether a transmutation of community property to separate property actually occurred, but the regulations shall be consistent with, and shall not vary from, existing community property law. These regulations shall be adopted as emergency regulations in accordance with the provisions of Chapter 3.5

(commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the State Department of Health Services in order to implement this act shall not be subject to the review and approval of the Office of Administrative Law.

CHAPTER 1519

An act to add Section 12234 to the Government Code, relating to historical preservation, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 12234 is added to the Government Code, to read:

12234. The secretary shall conduct a feasibility study to assess the needs, costs, and appropriate location for a new facility or conversion of an existing facility, or both, to house the collections and operations of the California State Archives for at least the next 50 years. The study shall take into consideration the appropriateness of combining compatible needs of other agencies to allow for cost-effective construction or conversion, or both, of facilities.

SEC. 2. There is hereby appropriated from the General Fund to the Secretary of State the sum of one hundred thousand dollars ($100,000) to defray the costs of the feasibility study conducted pursuant to this act.

CHAPTER 1520

An act to add Chapter 9.2 (commencing with Section 6220) to Title 7 of Part 3 of the Penal Code, relating to restitution centers.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Chapter 9.2 (commencing with Section 6220) is added to Title 7 of Part 3 of the Penal Code, to read:

CHAPTER 9.2. RESTITUTION CENTERS

6220. The Director of Corrections may establish and operate facilities to be known as restitution centers.

6221. The purpose of restitution centers is to provide a means for those sentenced to prison to be able to pay their victims financial restitution as ordered by the sentencing court, or as agreed upon by the defendant and his or her victims.

6222. The location for a restitution center or centers shall be determined by the Director of Corrections with approval from the county board of supervisors or city council in whose jurisdiction the center will be located.

6223. Restitution centers shall be located in areas which will maximize the employment opportunities of persons sentenced to the centers.

6224. The supervision, management, and control of the restitution centers and the responsibility for the care, custody, discipline, and employment of persons confined therein are vested in the Director of Corrections.

6225. Supervision of inmates in the restitution centers shall be by peace officer personnel of the Department of Corrections on a 24-hour basis.

6226. The Director of Corrections in establishing a restitution center shall enter into an agreement with the county, city, or city and county in which the facility is located to reimburse the county, city, or city and county for any additional direct law enforcement costs that will occur as a result of the restitution center.

6227. The court may order the Department of Corrections to place an eligible defendant in a restitution center if the court makes a restitution order, or if a restitution agreement is entered into by the victims and the defendant. The Department of Corrections may send a defendant to a reception center for classification prior to placing the defendant in the restitution center.

6228. A defendant is eligible for placement in a restitution center if he or she has not served a prison term within the 10 years prior to the present conviction, the defendant does not have a criminal history of an arrest or conviction for the sale or use of drugs or for a crime involving violence or sex, the defendant did not receive a sentence of more than 36 months, the defendant presents no unacceptable risk to the community, and the defendant is employable. The provisions of Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3, shall be applicable to prisoners in restitution centers.

6229. In each county, city, or city and county, in which a restitution center is established, there shall be a restitution center community advisory board to assist the Director of Corrections in

establishing and promoting the restitution program of the center. The board shall include the sheriff or chief of police of the local jurisdiction, the district attorney, a superior court judge selected by the presiding superior court judge, the chief probation officer, a member of the city council or the board of supervisors of the local jurisdiction, selected by the council or board, and two public members chosen by the city council or board of supervisors. The public member shall serve for two years. All members shall receive only actual expenses approved by the Director of Corrections. The expenses shall be paid by the Department of Corrections.

6230. (a) Offenders shall perform all the labor necessary to maintain the restitution center and meet the offenders' needs unless the director finds that a particular task can be better performed by other persons.

(b) The director may employ and pay compensation to offenders to perform work at a center.

6231. (a) Wages earned by an offender, less any deductions for taxes, shall be paid directly to the Department of Corrections.

(b) Wage moneys received by the department shall be used to reimburse the offender for costs directly associated with continued employment, including transportation, special tools or clothing, meals away from the center, union dues, and other employee-mandated costs. The remaining wages shall be distributed as follows:

(1) One-third shall be transferred to the Department of Corrections to pay the costs of operating and maintaining the restitution center.

(2) One-third shall be used to pay restitution pursuant to the agreement or court order. After the restitution is paid these moneys shall be paid to the jurisdiction which prosecuted the offender to defray the court costs and attorney fees incurred in the offender's prosecution. If all restitution, court costs and attorney fees are paid, these moneys shall be paid to the local jurisdiction for crime prevention.

(3) One-third shall be placed in a savings account for the offender, to provide support for the offender's immediate family, to purchase items necessary for the offender's employment or to give to the offender to purchase personal accessories. Any moneys in the savings account or not expended pursuant to this paragraph at the time the offender is released from the restitution center shall be paid to the offender.

6233. (a) An offender shall not leave a restitution center except to go to work or when specifically authorized and shall return to the restitution center immediately after work or when required by the person in charge of the restitution center.

(b) An offender who violates this section is guilty of escape, and notwithstanding any other provision of law shall be punishable as provided in Section 4530.

6234. (a) The offender shall not be allowed to take employment

if the rate of pay or other conditions of employment are less than those paid or provided for work of a similar nature in the locality in which the work is performed.

(b) To help in administering the restitution center programs, the director may use volunteer help.

(c) If an offender does not secure employment within three months after being sent to a restitution center, the director may, at any time thereafter, transfer the offender to another Department of Corrections facility if employment has not been obtained.

(d) If the offender violates any of the rules and regulations governing the restitution center, the director may transfer the offender to another Department of Corrections facility.

6235. The Department of Corrections shall, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, adopt regulations for administering restitution centers. To the extent practical, the rules and regulations shall be stated in language that is easily understood by the general public.

6236. This chapter shall be know as "Restitution Centers."

CHAPTER 1521

An act to amend Section 3702 of, to add Sections 3702.1 and 3702.7 to, and to repeal Section 3702.2 of, the Labor Code, relating to workers' compensation.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 3702 of the Labor Code is amended to read:

3702. (a) A certificate of consent to self-insure may be revoked by the director at any time for good cause after a hearing. Good cause includes, among other things, the impairment of the solvency of the employer to the extent that there is a marked reduction of the employer's financial strength, failure to maintain a security deposit as required by Section 3701, failure to pay assessments of the Self-Insurers' Security Fund, frequent or flagrant violations of state safety and health orders, the failure or inability of the employer to fulfill his or her obligations, or any of the following practices by the employer or his or her agent in charge of the administration of obligations under this division:

(1) Habitually and as a matter of practice and custom inducing claimants for compensation to accept less than the compensation due or making it necessary for them to resort to proceedings against the employer to secure compensation due.

(2) Where liability for temporary disability indemnity is not in

dispute, intentionally failing to pay temporary disability indemnity without good cause in order to influence the amount of permanent disability benefits due.

(3) Intentionally refusing to comply with known and legally indisputable compensation obligations.

(4) Discharging or administering his or her compensation obligations in a dishonest manner.

(5) Discharging or administering his or her compensation obligations in such a manner as to cause injury to the public or those dealing with the employer.

(b) Where revocation is in part based upon the director's finding of a marked reduction of the employer's financial strength or the failure or inability of the employer to fulfill his or her obligations, or a practice of discharging obligations in a dishonest manner, it is a condition precedent to the employer's challenge or appeal of the revocation that the employer have in effect insurance against liability to pay compensation.

SEC. 2. Section 3702.1 is added to the Labor Code, to read:

3702.1. (a) No person, firm, or corporation, other than an insurer admitted to transact workers' compensation insurance in this state, shall contract to administer claims of self-insured employers as a third-party administrator unless in possession of a certificate of consent to administer self-insured employers workers' compensation claims.

(b) As a condition of receiving a certificate of consent, all persons given discretion by a third-party administrator to deny, accept, or negotiate a workers' compensation claim shall demonstrate their competency to the director by written examination, or other methods approved by the director.

(c) A separate certificate shall be required for each adjusting location operated by a third-party administrator. A third-party administrator holding a certificate of consent shall be subject to regulation only under this division with respect to the adjustment, administration, and management of workers' compensation claims for any self-insured employer.

SEC. 3. Section 3702.2 of the Labor Code is repealed.

SEC. 4. Section 3702.7 is added to the Labor Code, to read:

3702.7. A certificate of consent to administer claims of self-insured employers may be revoked by the director at any time for good cause after a hearing. Good cause includes, but is not limited to, the violation of subsection (1), (2), (3), (4), or (5) of subdivision (a) of Section 3702. In lieu of revocation of a certificate of consent, the director may impose a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500) for each violation.

SEC. 5. This act shall become operative on July 1, 1985.

CHAPTER 1522

An act to amend Section 14083 of, and to add Section 14133.51 to, the Welfare and Institutions Code, relating to county health services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 14083 of the Welfare and Institutions Code is amended to read:

14083. The factors to be considered by the negotiator in negotiating contracts under this article, or in drawing specifications for competitive bidding, include, but are not limited to, all of the following:

(a) Beneficiary access.

(b) Utilization controls.

(c) Ability to render quality services efficiently and economically.

(d) Demonstrated ability to provide or arrange needed specialized services.

(e) Protection against fraud and abuse.

(f) Any other factor which would reduce costs, promote access, or enhance the quality of care.

(g) The capacity to provide a given tertiary service, such as specialized children's services, on a regional basis.

(h) Recognition of the variations in severity of illness and complexity of care.

(i) Existing labor-management collective bargaining agreements.

(j) The situation of county hospitals and university medical centers contracting with counties for provision of health care to indigent persons entitled to care under Section 17000, which are burdened to a greater extent than private hospitals with bad debts, indirect costs, medical education programs, and capital needs.

SEC. 2. Section 14133.51 is added to the Welfare and Institutions Code, to read:

14133.51. The Alameda County pilot program, as established in Section 14133.5, shall be extended for a period ending 12 months after the effective date of this act so that evaluation of the pilot program can be completed. The department shall enter into a revised memorandum of understanding with the pilot program within 60 days of the effective date of this section.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide adequate time to evaluate a Medi-Cal program pilot project established in Alameda County, it is necessary that this

act go into immediate effect.

CHAPTER 1523

An act to amend Section 7277 of, to amend and repeal Sections 12463.1, 53890, and 53892 of, and to add and repeal Section 12463.3 of, the Government Code, and to amend Section 33353.4 of, to amend, repeal, and add Section 33080 of, and to amend and repeal Sections 33080.1, 33080.4, and 33606 of, and to add and repeal Sections 33080.5 and 33080.6 of, the Health and Safety Code, relating to property, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 7277 as added to the Government Code, by Chapter 146 of the Statutes of 1984, is amended to read:

7277. (a) The requirement to provide relocation assistance and benefits imposed by this chapter shall not apply to a purchase of property which is offered for sale by the owner, property being sold at execution or foreclosure sale, or property being sold pursuant to court order or under court supervision if the property in any of the foregoing situations is either occupied by the owner or is unoccupied, and if the offer for sale is not induced by public entity disposition, planned condemnation, or redevelopment of surrounding lands, and if the sales price is fair market value or less, as determined by a qualified appraiser, and if no federal funds are involved in the acquisition, construction, or project development. "Offered for sale" means either advertised for sale in a publication of general circulation published at least once a week or listed with a licensed real estate broker and published in a multiple listing, pursuant to Section 1087 of the Civil Code.

(b) At the time of making an offer to acquire property under subdivision (a), public entities shall notify the property owner in writing, of the following:

(1) The public entity's plans for developing the property to be acquired or the surrounding property.

(2) Any relocation assistance and benefits provided pursuant to state law which the property owner may be forgoing.

SEC. 1.5. Section 12463.1 of the Government Code is amended to read:

12463.1. The Controller shall appoint an advisory committee consisting of seven local governmental officers to assist him or her in developing complete and adequate records.

Whenever, in the opinion of the advisory committee and the Controller, the public welfare demands that the reports of the

financial transactions of a district other than a school district be published, the Controller shall notify the district that reports of its financial transactions are required to be furnished to him or her pursuant to Article 9 (commencing with Section 53890) of Chapter 4 of Part 1 of Division 2 of Title 5. A public entity, agency, board, transportation planning agency designated by the Secretary of the Business and Transportation Agency pursuant to Section 29532, or commission provided for by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1, and a nonprofit corporation as defined herein, shall be deemed a district within the meaning of this section. The Controller shall compile and publish such reports pursuant to Section 12463.

For purposes of this section, "nonprofit corporation" shall mean any nonprofit corporation (1) formed in accordance with the provisions of a joint powers agreement to carry out functions specified in the agreement; or, (2) that issued bonds, the interest on which is exempt from federal income taxes, for the purpose of purchasing land as a site for, or purchasing or constructing, a building, stadium, or other facility, which is subject to a lease or agreement with a local public entity; or, (3) wholly owned by a public agency.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, pursuant to Section 9611 of the Government Code, Section 12463.1 of the Government Code, as amended by Section 1 of Chapter 647 of the Statutes of 1979, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. Section 12463.3 is added to the Government Code, to read:

12463.3. On or before April 1 of each year, the Controller shall compile and publish annually reports of the financial transactions of each community redevelopment agency created pursuant to Division 24 (commencing with Section 33000) of the Health and Safety Code. The Controller shall publish this information for each project area of each redevelopment agency. The reports shall be made in the time, form, and manner prescribed by the Controller, after consultation with the Department of Housing and Community Development and the advisory committee created pursuant to Section 12463.1. The first report published pursuant to this section shall be for the 1984–85 fiscal year.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.

SEC. 3. Section 53890 of the Government Code is amended to read:

53890. As used in this article, "local agency" means any city, county, any district, and any community redevelopment agency

required to furnish financial reports pursuant to Section 12463.1 or 12463.3.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, pursuant to Section 9611 of the Government Code, Section 53890 of the Government Code, as added by Section 5 of Chapter 1521 of the Statutes of 1949, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 4. Section 53892 of the Government Code is amended to read:

53892. The report shall state:

(a) The aggregate amount of taxes levied and assessed against the taxable property in the local agency, which became due and payable during the next preceding fiscal year.

(b) The aggregate amount of taxes levied and assessed against such property collected by or for, the local agency during the fiscal year.

(c) The aggregate income during the preceding fiscal year, a general statement of the sources of the income, and the amount received from each source.

(d) The total expenditures made by administrative departments during the preceding fiscal year, a general statement of the purposes of the expenditures, and the amounts expended by each department.

(e) The assessed valuation of all of the taxable property in the local agency as set forth on the assessment roll of the local agency equalized for the fiscal year, or, if the officers of the county in which the city or district is situated have collected for the city or district the general taxes levied by the city or district for the fiscal year, the assessed valuation of all taxable property in the city or district as set forth on the assessment rolls for the county equalized for the fiscal year.

(f) The information required by Section 53892.2, as of the end of the fiscal year.

(g) The approximate population at the close of the fiscal year and the population as shown by the last regular federal census.

(h) Other information which the Controller requires.

(i) Such other matters necessary to complete and keep current the statistical information on assessments, revenues and taxation, collected and compiled by any Senate or Assembly interim committee on state and local taxation established by resolution of the Legislature or either house thereof.

(j) In the case of cities, the information required by Section 53892.3.

(k) In the case of community redevelopment agencies, the information required by subdivisions (a), (b), and (d) of Section 33080.1 of the Health and Safety Code. The Controller shall forward the information required pursuant to subdivision (c) of Section

33080.1 of the Health and Safety Code to the Department of Housing and Community Development for publication pursuant to Section 33080.6 of the Health and Safety Code.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, pursuant to Section 9611 of the Government Code, Section 53892 of the Government Code, as amended by Section 1 of Chapter 212 of the Statutes of 1969, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 5. Section 33080 of the Health and Safety Code is amended to read:

33080. Every redevelopment agency shall file with the Controller within six months of the end of the agency's fiscal year a copy of the report required by Section 33080.1. The reports shall be made in the time, format, and manner prescribed by the Controller after consultation with the department.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.

SEC. 5.5. Section 33080 is added to the Health and Safety Code, to read:

33080. Every agency shall file with the department, within six months of the end of the agency's fiscal year, a copy of the report required by Section 38080.1.

This section shall become operative January 1, 1991.

SEC. 6. Section 33080.1 of the Health and Safety Code is amended to read:

33080.1. Every redevelopment agency shall present an annual report to its legislative body within six months of the end of the agency's fiscal year. The annual report shall contain all of the following:

(a) An independent financial audit report for the previous fiscal year. "Audit report" means an examination of, and opinion on, the financial statements of the agency which present the results of the operations and financial position of the agency. Such audit shall be conducted in accordance with generally accepted auditing standards and the rules governing audit reports promulgated by the State Board of Accountancy. The audit report shall also include an opinion of the agency's compliance with laws, regulations, and administrative requirements governing activities of the agency.

However, the legislative body may elect to omit from inclusion in the audit report any distinct activity of the agency which is funded exclusively by the federal government and which is subject to audit by the federal government.

(b) A fiscal statement for the previous fiscal year which contains the information required pursuant to Section 33080.5.

(c) A description of the agency's activities affecting housing and

displacement which contains the information required by Section 33080.4.

(d) Any other information which the agency believes useful to explain its programs, including, but not limited to, the number of jobs created as a result of its activities.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, pursuant to Section 9611 of the Government Code, Section 33080.1 of the Health and Safety Code, as amended by Section 1 of Chapter 206 of the Statutes of 1981, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 7. Section 33080.4 of the Health and Safety Code is amended to read:

33080.4. For the purposes of compliance with subdivision (c) of Section 33080.1, the description of the agency's activities shall contain the following information regardless of whether each activity is funded exclusively by the state or federal government, for each project area and for the agency overall:

(a) Pursuant to Section 33413, the total number of households, including households for persons and families of low or moderate income, that were displaced or moved from their dwelling units as part of a redevelopment project of the agency during the previous fiscal year.

(b) Pursuant to Section 33413.5, the total number of households, including households for persons and families of low or moderate income, that the agency estimates will be displaced or will move from their dwellings as part of a redevelopment project of the agency during the present fiscal year.

(c) The total number of dwelling units housing persons and families of low and moderate income which have been destroyed or removed from the low- or moderate-income housing market during the previous fiscal year as part of a redevelopment project of the agency.

(d) The total number of agency-assisted dwelling units which were constructed, rehabilitated, acquired, or subsidized during the previous fiscal year for occupancy at an affordable housing cost by persons and families of low and moderate income.

(e) The status and use of the Low and Moderate Income Housing Fund created pursuant to Section 33334.3, including information on the use of this fund for very low income households, lower income households and households for persons and families of low or moderate income.

(f) Any other information which the agency believes useful to explain its housing programs, including, but not limited to, housing for persons and families of other than low and moderate income.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is

enacted before January 1, 1991, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, pursuant to Section 9611 of the Government Code, Section 33080.4 of the Health and Safety Code, as added by Section 2 of Chapter 206 of the Statutes of 1981, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 8. Section 33080.5 is added to the Health and Safety Code, to read:

33080.5. For the purposes of compliance with subdivision (b) of Section 33080.1, the fiscal statement shall contain the following information:

(a) The amount of outstanding indebtedness of the agency and each project area.

(b) The amount of tax increment property tax revenues generated in the agency and in each project area.

(c) The amount of tax increment revenues paid to a taxing agency pursuant to subdivision (b) of Section 33401.

(d) The financial transactions report required pursuant to Section 53891 of the Government Code.

(e) Any other fiscal information which the agency believes useful to describe its programs.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that act.

SEC. 9. Section 33080.6 is added to the Health and Safety Code, to read:

33080.6. On or before April 1 of each year, the department shall compile and publish reports of the activities of redevelopment agencies for the previous fiscal year, based on the information reported pursuant to subdivision (c) of Section 33080.1. The department shall publish this information for each project area of each redevelopment area. These reports may also contain the biennial review of relocation assistance required by Section 50460. The first report published pursuant to this section shall be for the 1984–85 fiscal year.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.

SEC. 9.5. Section 33353.4 of the Health and Safety Code, as amended by Chapter 147 of the Statutes of 1984, is amended to read:

33353.4. (a) In the event a fiscal review committee is created pursuant to Section 33353, the redevelopment agency shall send the redevelopment plan to the chairperson of the fiscal review committee. The county representative or chief administrative officer shall be the temporary chairperson of the fiscal review committee for the purpose of convening the fiscal review committee's first meeting.

(b) The chairperson of the fiscal review committee shall convene the fiscal review committee with all due dispatch, and hold a hearing

not less than 25, and not more than 40, days from the receipt of the plan. The hearing may be continued by the fiscal review committee but shall be completed within 15 days from the date of the initial hearing unless the agency and the fiscal review committee agree to an additional period of time.

SEC. 10. Section 33606 of the Health and Safety Code is amended to read:

33606. An agency shall adopt an annual budget containing all of the following specific information identifying:

(a) The proposed expenditures of the agency.

(b) The proposed indebtedness to be incurred by the agency.

(c) The anticipated revenues of the agency.

(d) The work program for the coming year, including goals.

(e) An examination of the previous year's achievements and a comparison of the achievements with the goals of the previous year's work program.

The annual budget may be amended from time to time as determined by the agency. All expenditures and indebtedness of the agency shall be in conformity with the adopted or amended budget.

When the legislative body is not the redevelopment agency, the legislative body shall approve the annual budget and amendments of the annual budget of the agency.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date. If that date is not deleted or extended, then, on or after January 1, 1991, pursuant to Section 9611 of the Government Code, Section 33606 of the Health and Safety Code, as amended by Section 14 of Chapter 797 of the Statutes of 1977, shall have the same force and effect as if the temporary provisions had not been enacted.

SEC. 11. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 12. The sum of one hundred five thousand dollars ($105,000) is hereby appropriated from the General Fund to the Controller to pay for the costs of the increased duties imposed upon the Controller by this act during the 1984–85 fiscal year.

CHAPTER 1524

An act to add Section 1538.2 to the Health and Safety Code, relating to community care facilities.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 1538.2 is added to the Health and Safety Code, to read:

1538.2. The director shall establish an automated license information system on licensees and former licensees of licensed community care facilities. The system shall maintain a record of any information that may be pertinent, as determined by the director, for licensure under this chapter and Chapter 3.6 (commencing with Section 1597.50). This information may include, but is not limited to, the licensees' addresses, telephone numbers, violations of any laws related to the care of clients in a community care facility, licenses, revocation of any licenses and, to the extent permitted by federal law, social security numbers.

SEC. 2. Section 1 of this act shall become operative on July 1, 1985.

CHAPTER 1525

An act to add and repeal Article 8 (commencing with Section 6580) of Chapter 5 of Part 1 of Division 6 of the Fish and Game Code, relating to the Santa Monica Bay, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Article 8 (commencing with Section 6580) is added to Chapter 5 of Part 1 of Division 6 of the Fish and Game Code, to read:

Article 8. Santa Monica Bay Revitalization

6580. This article shall be known and may be cited as the Santa Monica Bay Revitalization Act.

6581. The Legislature finds and declares as follows:

(a) Santa Monica Bay is the largest natural bay in southern California.

(b) Santa Monica Bay is a vital environmental and economic

resource for the state and its citizens, including tourism, recreation, sport fishing, boating, fish and wildlife, esthetics, and other uses.

(c) A healthy and biologically productive Santa Monica Bay increases the beneficial economic and recreational uses of the bay.

(d) In the recent past, some aspects of urban development and waste disposal practices have adversely impacted the Santa Monica Bay.

(e) Commercial fishing utilizing gill, trammel, round haul, trawl, and drag nets and crab traps is prohibited from district 19A in Santa Monica Bay. The department shall vigorously enforce this prohibition.

(f) At present, state and federal officials are unable to determine if marine life and sport fishing opportunities in Santa Monica Bay have suffered as a result of urban development adjacent to the bay or as a result of overfishing. This determination is necessary before additional resources are directed toward increasing marine life and sport fishing opportunities.

(g) Habitat enhancement has proved successful in increasing the number and congregating of marine species. The department shall continue to fully implement its kelp restoration and artificial reef programs within Santa Monica Bay.

6582. For purposes of this article, Santa Monica Bay includes the ocean waters and tidelands of the state to the high water mark lying between the southerly extremity of Point Dume and the western extremity of Rocky Point (Palos Verdes Point).

6583. The department shall undertake a study, which shall bring together all of the existing research materials on the biological productivity of Santa Monica Bay, for the purpose of making recommendations to the Legislature for increasing marine life and sport fishing opportunities in Santa Monica Bay.

6584. (a) The department, in the study, shall examine the existing research which has been produced by the Southern California Coastal Water Research Project, the University of California, the California State Colleges and Universities, the department, and other research organizations.

(b) The department, in the study, shall examine the current and historical levels and ranges of significant marine species. The department shall prepare a report on the study, which shall include, but not be limited to, its recommendations for increased sport fishing opportunities in Santa Monica Bay, the feasibility and desirability of the creation of artificial reefs, kelp restoration, expansion of public pier facilities, and legislative and regulatory changes in existing law.

(c) The draft of the report shall first be submitted to the Santa Monica Bay Advisory Committee for review and comment. The department shall consider the advisory committee's comments and recommendations when preparing the final report. The comments and recommendations that are not incorporated into the final report shall be attached as an appendix to the report.

(d) The final report shall be submitted to the Legislature on or

before January 1, 1986.

6585. There is hereby created a Santa Monica Bay Advisory Committee composed of 12 members. The members of the advisory committee shall be appointed by the director. The members of the committee shall include two representatives from each of the following groups:

(a) Sport fishing businesses.
(b) Commercial fishing.
(c) Local government.
(d) Local business.
(e) Anglers.
(f) Environmental groups.

6586. This article shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1986, deletes or extends that date.

SEC. 2. The sum of sixty thousand dollars ($60,000) is hereby appropriated from the California Environmental License Plate Fund to the Department of Fish and Game to carry out the provisions of the Santa Monica Bay Revitalization Act (Article 8 (commencing with Section 6580) of Chapter 5 of Part 1 of Division 6 of the Fish and Game Code).

CHAPTER 1526

An act to amend Section 8690.4 of the Government Code, relating to natural disaster, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984]

I am deleting the $1.3 million appropriation contained in Section 2 of Assembly Bill No. 4043.

This appropriation is unnecessary. The 1984 Budget Act reappropriated funds in the Natural Disaster Assistance Account for the purpose of providing disaster relief for damages resulting from the Morgan Hill earthquake.

With this deletion, I approve Assembly Bill No. 4043.

GEORGE DEUKMEJIAN, *Governor*

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

SECTION 1. Section 8690.4 of the Government Code is amended to read:

8690.4. The Controller shall establish the following three special accounts in the Natural Disaster Assistance Fund:

(a) The Public Facilities Account, into which shall be paid all resources of the appropriation made by Section 4 of Chapter 624 of

the Statutes of 1973, any money hereafter appropriated by the Legislature for allocation for public facilities projects, and any income from investment of moneys in the account and payments by local agencies in reimbursement of moneys disbursed from the account, including deferred payments with charges, pursuant to Section 8686.8.

(b) The Street and Highway Account, into which shall be paid all resources transferred from the Street and Highway Disaster Fund, any money received from the federal government as reimbursement to any city or county for expenditures from funds allocated, transferred or expended pursuant to this chapter for a street and highway project, any money hereafter appropriated by the Legislature for allocation for street and highway projects, and any income from investment of moneys in the account and payments by local agencies in reimbursement of moneys disbursed from the account including deferred payments with charges, pursuant to Section 8686.8.

(c) The 1983 Natural Disasters Account, into which shall be paid all moneys appropriated by the Legislature for allocation to those who have incurred losses or expenses resulting from the Coalinga earthquake of May 2, 1983, or the "Morgan Hill" earthquake of April 24, 1984, as follows:

(1) To reimburse local agencies for personnel overtime costs and for supplies used for disaster assistance.

(2) To provide for the repair, cleanup, and reconstruction of damaged public facilities.

(3) To provide state matching funds for federal assistance.

(4) To provide other assistance as the Director of the Office of Emergency Services deems necessary to carry out the provisions of this subdivision.

SEC. 2. The sum of one million three hundred thousand dollars ($1,300,000) is hereby allocated from within the 1983 Natural Disasters Account in the Natural Disaster Assistance Fund for designation by the Director of the Office of Emergency Services pursuant to Section 8690.4 of the Government Code.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Areas of Santa Clara County were damaged by the April 1984 earthquakes centered around the City of Morgan Hill, and are urgently in need of aid and assistance which can be provided through the State's Deferred Payment Rehabilitation Program. In order to exempt the use of funds to finance the reconstruction of demolished housing from an existing limitation as soon as possible, and in order to enable the state to utilize these funds to provide immediate aid and assistance, it is necessary that this act take effect immediately.

CHAPTER 1527

An act to amend Section 799.24 of the Civil Code, and to amend Sections 18002.3, 18005.3, 18005.8, 18009.5, 18022, 18075, 18076, 18080, 18080.1, 18080.4, 18080.7, 18081, 18085, 18085.5, 18086, 18086.5, 18087, 18087.5, 18088, 18088.5, 18089, 18089.5, 18090, 18090.5, 18091.5, 18092, 18092.5, 18093, 18098, 18098.5, 18100.5, 18101, 18101.5, 18102, 18102.5, 18103, 18105, 18105.5, 18106, 18108, 18108.5, 18109, 18114, 18117, 18117.5, and 18123 of, and to add Sections 18012.4, 18013.4, 18075.7, and 18093.5 to, the Health and Safety Code, relating to truck campers, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 799.24 of the Civil Code is amended to read:

799.24. (a) "Recreational vehicle" means a motor home, slide-in camper, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational or emergency occupancy.

(b) "Camping trailer" means a vehicular portable unit mounted on wheels and constructed with collapsible partial sidewalls which fold for towing by another vehicle and unfold at the campsite and designed for human habitation for recreational or emergency occupancy.

(c) "Motor home" means a vehicular unit built on, or permanently attached to, a self-propelled motor vehicle chassis, chassis cab or van, which becomes an integral part of the completed vehicle, designed for human habitation for recreational or emergency occupancy.

(d) "Slide-in camper" means a portable unit, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from a truck, and designed for human habitation for recreational or emergency occupancy. A "slide-in camper" means a truck camper.

(e) "Travel trailer" means a portable unit, mounted on wheels, of such a size and weight as not to require special highway movement permits when drawn by a motor vehicle and for human habitation for recreational or emergency occupancy.

SEC. 2. Section 18002.3 of the Health and Safety Code is amended to read:

18002.3. "Consumer" includes any person or entity which purchases or leases a manufactured home, mobilehome, commercial coach, recreational vehicle, or truck camper for consideration, except a dealer or manufacturer.

SEC. 3. Section 18005.3 of the Health and Safety Code is amended to read:

18005.3. "Junior lienholder" means a person, other than a legal

owner, holding a security interest in a manufactured home, mobilehome, commercial coach, or truck camper perfected by filing the appropriate documents with the department pursuant to Section 18080.7.

SEC. 4. Section 18005.8 of the Health and Safety Code is amended to read:

18005.8. "Legal owner" means a person holding a security interest in a manufactured home, mobilehome, commercial coach, or truck camper perfected by filing the appropriate documents with the department pursuant to Section 18080.7 if the person is entitled to the designation, as provided in Article 3 (commencing with Section 18085) or 4 (commencing with Section 18098) of Chapter 8.

SEC. 5. Section 18009.5 of the Health and Safety Code is amended to read:

18009.5. "Registered owner" means a person registered by the department as the owner of a manufactured home, mobilehome, commercial coach, or truck camper.

SEC. 6. Section 18012.4 is added to the Health and Safety Code, to read:

18012.4. "Slide-in camper" means a portable unit, consisting of a roof, floor, and sides, designed to be loaded onto, and unloaded from, a truck and designed for human habitation for recreational or emergency occupancy. "Slide-in camper" means a truck camper.

SEC. 7. Section 18013.4 is added to the Health and Safety Code, to read:

18013.4. "Truck camper" means a slide-in camper as defined in Section 799.24 of the Civil Code.

SEC. 8. Section 18022 of the Health and Safety Code is amended to read:

18022. (a) The director, and other representatives of the department designated by him or her, shall enforce those provisions of law committed to the administration of the department pursuant to this part.

(b) Any person designated in subdivision (a) may inspect any manufactured home, mobilehome, commercial coach, or truck camper of a type required to be registered under this code, or any component part thereof, in any garage, repair shop, parking lot, new or used sales facility, manufacturer's facility, display facility, or any other establishment engaged in the business of selling, repairing, or displaying manufactured homes, mobilehomes, commercial coaches, or truck campers, or the integral parts thereof, for the purpose of investigating the title and registration of the manufactured home, mobilehome, commercial coach, or truck camper, or the sales practices thereof.

SEC. 9. Section 18075 of the Health and Safety Code is amended to read:

18075. (a) Except as provided in Section 18075.7, all manufactured homes, mobilehomes, commercial coaches, and truck campers shall be subject to the provisions of this code for the

purposes of titling and registration.

(b) The department shall promulgate, adopt, and amend, as necessary, regulations to implement, interpret, and make specific the provisions of this chapter. Departmental regulations shall provide for an orderly and economical transfer of registrations and titles for manufactured homes, mobilehomes, commercial coaches, and truck campers previously issued by the Department of Motor Vehicles to those issued by the department. Any registration, title, or decal issued by the Department of Motor Vehicles shall be valid until renewed, replaced, transferred, suspended, or revoked.

(c) The department may establish a schedule of fees to pay the costs of work related to administration and enforcement of this chapter, except where the fees are expressly stated herein.

SEC. 10. Section 18075.7 is added to the Health and Safety Code, to read:

18075.7. On and after January 1, 1986, every truck camper may, at the owner's request, be registered with the department at the time of sale, resale, or transfer of title. The department shall issue certificates of title and registration cards for any truck camper registered under this part.

Any truck camper permanently attached to a vehicle and registered as a "house car" under the Vehicle Code is exempt under this part.

SEC. 11. Section 18076 of the Health and Safety Code is amended to read:

18076. Manufactured homes, mobilehomes, commercial coaches, or truck campers owned or leased by the United States, by any foreign government, by a consul or other official representative or any foreign government, by the state, by a political subdivision of the state, or by any city, county, or city and county, or public corporation shall be subject to registration under this code by the person having custody thereof, but shall not be subject to the registration fees specified in this code or the Revenue and Taxation Code, and that person shall display upon the manufactured home, mobilehome, commercial coach, or truck camper a decal bearing distinguishing marks or symbols which shall be furnished by the department free of charge.

SEC. 12. Section 18080 of the Health and Safety Code is amended to read:

18080. Ownership registration and title to a manufactured home, mobilehome, commercial coach, or truck camper subject to registration may be held by two or more coowners as follows:

(a) A manufactured home, mobilehome, commercial coach, or truck camper may be registered in the names of two or more persons as joint tenants. Upon the death of a joint tenant, the interest of the decedent shall pass to the survivor or survivors. The signature of each joint tenant or survivor or survivors, as the case may be, shall be required to transfer or encumber the title to the manufactured home, mobilehome, commercial coach, or truck camper.

(b) A manufactured home, mobilehome, commercial coach, or truck camper may be registered in the names of two or more persons as tenants in common. If the names of the tenants in common are separated by the word "and", each tenant in common may transfer his or her individual interest in the manufactured home, mobilehome, commerical coach, or truck camper without the signature of the other tenant or tenants in common. However, the signature of each tenant in common shall be required to transfer full interest in the title to a new registered owner. If the names of the tenants in common are separated by the word "or", any one of the tenants in common may transfer full interest in the title to the manufactured home, mobilehome, commercial coach, or truck camper to a new registered owner without the signature of the other tenant or tenants in common. The signature of each tenant in common is required in all cases to encumber the title to the manufactured home, mobilehome, commercial coach, or truck camper.

(c) A manufactured home, mobilehome, commercial coach, or truck camper may be registered as community property in the names of a husband and wife. The signature of each spouse shall be required to transfer or encumber the title to the manufactured home, mobilehome, commercial coach, or truck camper.

(d) All manufactured homes, mobilehomes, commercial coaches, and truck campers registered, on or before January 1, 1985, in the names of two or more persons as tenants in common, as provided in subdivision (b), shall be considered to be the same as if the names of the tenants in common were separated by the word "or", as provided in subdivision (b).

SEC. 13. Section 18080.1 of the Health and Safety Code is amended to read:

18080.1. The registration of a manufactured home, mobilehome, commercial coach, or truck camper may be held in the name of a company, an estate, a trusteeship, a conservatorship, a guardianship, or an individual owner's name, as follows:

(a) In the case of an individual owner, the manufactured home, mobilehome, commercial coach, or truck camper shall be registered in the true name of the individual owner only. Complimentary or professional titles may be added to the true name only if the individual is commonly addressed by that title.

(b) In the case of a trusteeship or guardianship, the manufactured home, mobilehome, commercial coach, or truck camper shall be registered in the name of the person or persons designated as the trustees or conservators or guardians followed by the word "trustee," "guardian" or "conservator," whichever is appropriate. Transfer of ownership or encumbrance of a manufactured home, mobilehome, commercial coach, or truck camper so registered shall require the signatures of all designated trustees, conservators, or guardians, as evidenced by appropriate documentation.

(c) In the case of a manufactured home, mobilehome, commercial

coach, or truck camper registered in the name of a company, the application for registration shall be countersigned by an officer or authorized agent of the company. Transfer of ownership or encumbrance of a manufactured home, mobilehome, commercial coach, or truck camper so registered shall require the signature of an officer or authorized agent of the company.

(d) In the case of a manufactured home, mobilehome, commercial coach, or truck camper registered to an estate, the application for registration shall be signed by the appointed executor or administrator of the estate as evidenced by appropriate documentation. Transfer of ownership or encumbrance of a manufactured home, mobilehome, commercial coach, or truck camper so registered shall require the signature of the appointed executor or administrator as evidenced by appropriate documentation.

SEC. 14. Section 18080.4 of the Health and Safety Code is amended to read:

18080.4. (a) Every registered owner, upon receipt of a registration card, shall maintain the card or a copy thereof with the manufactured home, mobilehome, commercial coach, or truck camper for which it is issued.

(b) This section does not apply when a registration card is necessarily removed from the manufactured home, mobilehome, commercial coach, or truck camper for the purpose of application for renewal, amendment, or transfer of registration.

SEC. 15. Section 18080.7 of the Health and Safety Code is amended to read:

18080.7. (a) Each person acquiring or retaining a security interest in a manufactured home, mobilehome, commercial coach, or truck camper subject to registration under this part, unless the collateral is inventory, shall forward or cause to be forwarded to the department the application for original registration contemplated by Section 18085 with respect to a security interest acquired or retained at or before original registration, or the certificate of title or current registration card with appropriate insertions and signatures as respectively contemplated by Section 18100.5 with respect to a security interest acquired or retained at a time subsequent to original registration, together with the filing fee prescribed by department regulations.

(b) A security interest in a manufactured home, mobilehome, commercial coach, or truck camper subject to registration under this part, unless the collateral is inventory, is perfected when it has attached as contemplated by subdivision (a) and by subdivision (2) of Section 9203 of the Commercial Code and when the department has received the items required by subdivision (a), whichever occurs later, except as otherwise provided by Section 9305 of the Commercial Code. The department may adopt regulations authorizing its acceptance of a statement of lien by means of electronic facsimile. If the department adopts these regulations, a

security interest may also be perfected when it has attached and when the department has received the electronic facsimile, whichever occurs later, subject to the receipt by the department of the items required by subdivision (a), other than the fee, within 10 days of the date of its receipt of the electronic facsimile, provided that the fee required by subdivision (a) is paid in a timely fashion pursuant to these regulations.

(c) Except as otherwise provided in subdivision (b) of Section 18100.5, upon receipt of the items required by subdivision (a), the department shall establish or amend the permanent title record of the manufactured home, mobilehome, commercial coach, or truck camper to reflect the interest of the secured party as of that date or, if within the preceding 10-day period the department has received an electronic facsimile of the statement of lien, as of the date of receipt of the electronic facsimile, provided that the fee required by subdivision (a) is paid in a timely fashion and the department actually receives the statement of lien within 10 days of its receipt of the electronic facsimile.

(d) Upon establishing or amending the permanent title record, the department shall issue to the registered owner a current registration card indicating the interest of the secured party and shall forward a copy of that registration card to all persons holding a record security interest in the manufactured home, mobilehome, commercial coach, or truck camper.

(e) Except as otherwise provided in subdivision (b) of Section 18100.5, the department shall not refuse to establish or amend the permanent title record to indicate a security interest which is authorized by law to be recorded and which would otherwise satisfy statutory requirements for departmental documentation and recordation on the basis of lack of knowledge as to the attachment of the security interest prior to its receipt of the statement of lien or an electronic facsimile thereof.

(f) The department shall designate the holder of a perfected security interest as either the legal owner or a junior lienholder as provided in this article, Article 3 (commencing with Section 18085), or Article 4 (commencing with Section 18098), as applicable.

(g) The failure of a secured party to perfect a security interest for which there has been attachment shall not impair or affect in any way its enforceability against the registered owner or debtor with respect to the manufactured home, mobilehome, commercial coach, or truck camper.

(h) Except as otherwise provided in this part, a security interest in a manufactured home, mobilehome, commercial coach, or truck camper subject to registration with the department is governed by Division 9 (commencing with Section 9101) of the Commercial Code.

SEC. 16. Section 18081 of the Health and Safety Code is amended to read:

18081. (a) Any person may request, and the department shall

furnish, information regarding the current registration and title status of a manufactured home, mobilehome, commercial coach, or truck camper. The department shall provide forms for these requests, shall establish a standard format for providing the information, and may charge fees to pay the cost of furnishing this information.

(b) Upon receipt of a properly executed request for information and the payment of prescribed fees, the department shall provide the information within five working days by first-class mail to the address indicated on the request. The department may adopt procedures for providing the information by electronic facsimile in addition to mailing that information.

SEC. 17. Section 18085 of the Health and Safety Code is amended to read:

18085. (a) Application for the original registration of a manufactured home, mobilehome, commercial coach, or truck camper required to be registered under this part shall be made to the department upon the appropriate form approved by the department, and shall be accompanied by the filing fee prescribed by department regulations and the original manufacturer's certificate of origin in the form prescribed by Sections 18093 and 18093.5. If the original certificate of origin is not in existence, a duplicate thereof shall be obtained from the manufacturer and submitted with the application for original registration. Any duplicate copy shall be conspicuously marked as a duplicate copy.

(b) The application shall include, but not be limited to, all of the following:

(1) The true name and mailing address of the registered owner, the legal owner, if any, and junior lienholders, if any.

(2) The name of the county in which the registered owner resides.

(3) The situs address of the manufactured home, mobilehome, or commercial coach, or the county address of a truck camper owner, to include the county.

(4) A description of the manufactured home, mobilehome, commercial coach, or truck camper, including all of the following:

(A) The manufacturer's name and identification number.

(B) The date of manufacture.

(C) The serial number or numbers.

(D) The federal label number or numbers affixed pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sec. 5401 et seq.) or department insignia number or numbers affixed pursuant to Section 18026.

(E) The date first sold or leased to a purchaser or lessee for purposes other than resale.

(F) Any other information as may be reasonably required by the department to enable it to determine whether the manufactured home, mobilehome, commercial coach, or truck camper is lawfully entitled to registration.

SEC. 18. Section 18085.5 of the Health and Safety Code is

amended to read:

18085.5. The department shall not accept an application for the original registration of a manufactured home, mobilehome, commercial coach, or truck camper unless the manufactured home, mobilehome, or commercial coach at the time of application is within the state or unless the provisions of this part have been complied with.

SEC. 19. Section 18086 of the Health and Safety Code is amended to read:

18086. The department may accept an application for registration of a manufactured home, mobilehome, commercial coach, or truck camper which is not within the state, but which is to be registered to a resident of this state, at the time all documents and fees, as determined by the department in accordance with the provisions of this chapter, are submitted to the department. Any fees submitted pursuant to this section shall not be subject to refund based upon the fact that the manufactured home, mobilehome, commercial coach, or truck camper is not and has not been within this state.

SEC. 20. Section 18086.5 of the Health and Safety Code is amended to read:

18086.5. (a) In the absence of the regularly required supporting evidence of ownership and upon application for registration or transfer of a manufactured home, mobilehome, commercial coach, or truck camper, the department may accept an undertaking or bond which shall be conditioned to protect the department and all officers and employees thereof and any subsequent purchaser of the manufactured home, mobilehome, commercial coach, or truck camper, any person acquiring a lien or security interest thereon, or the successor in interest of that purchaser or that person against any loss or damage on account of any defect in or undisclosed claim upon the right, title, and interest of the applicant or other person in and to the manufactured home, mobilehome, commercial coach, or truck camper.

(b) Any interested person shall have a right of action to recover on any bond or undertaking for any breach of the conditions for which the bond was deposited, but the aggregate liability of the surety to all persons shall in no event exceed the amount of the bond. In the event the manufactured home, mobilehome, commercial coach, or truck camper is no longer subject to registration in this state and the currently valid certificate of title is surrendered to the department, the bond or undertaking shall be returned and surrendered at the end of three years or, prior thereto, at the discretion of the department.

SEC. 21. Section 18087 of the Health and Safety Code is amended to read:

18087. Upon application for registration of a manufactured home, mobilehome, commercial coach, or truck camper previously registered outside this state, the application shall be certified by the

applicant and shall state that the manufactured home, mobilehome, commercial coach, or truck camper previously has been registered outside this state, the time and place of the last registration of the manufactured home, mobilehome, commercial coach, or truck camper outside this state, the name and address of the governmental officer, agency, or authority making the registration, and any further information relative to its previous registration as may reasonably be required by the department, including the time and place of original registration, if known, and if different from the last foreign registration.

SEC. 22. Section 18087.5 of the Health and Safety Code is amended to read:

18087.5. (a) The applicant for registration under this part of a manufactured home, mobilehome, commercial coach, or truck camper previously registered outside this state shall surrender to the department all unexpired license plates, seals, certificates, or other evidence of foreign registration which are in the applicant's possession or under the applicant's control. The department may require a certification from the jurisdiction of last registry when the applicant fails to surrender the last issued unexpired license plates.

(b) Upon application made at the time of their surrender to the department and upon payment of a fee of three dollars ($3), the department shall return the unexpired license plates to the official in charge of the registration of manufactured homes, mobilehomes, commercial coaches, or truck campers in the state of issue of the license plates.

SEC. 23. Section 18088 of the Health and Safety Code is amended to read:

18088. (a) Upon application for registration of a manufactured home, mobilehome, commercial coach, or truck camper previously registered outside this state, the department shall grant full faith and credit to the currently valid certificate of title describing the manufactured home, mobilehome, commercial coach, or truck camper, the ownership thereof, and any liens thereon, issued by the state in which the vehicle was last registered, except there shall be a notation upon the certificate of title of any and all liens and encumbrances other than those dependent upon possession.

(b) In the absence of knowledge by the department that any certificate of title issued by another state is forged, fraudulent, or void, the acceptance thereof by the department shall be a sufficient determination of the genuineness and regularity of the certificate and of the truth of the recitals therein, and no liability shall be incurred by any officer or employee of the department by reason of so accepting a certificate of title.

SEC. 24. Section 18088.5 of the Health and Safety Code is amended to read:

18088.5. If a certificate of title issued by another state shows any lien or encumbrance upon the manufactured home, mobilehome, commercial coach, or truck camper therein described, the

department, upon registering the manufactured home, mobilehome, commercial coach, or truck camper in this state and upon issuing a certificate of title, shall include therein the name of the legal owner and lienholders, if any, unless documents submitted with the foreign certificates of title establish that the lien or encumbrance has been fully satisfied.

SEC. 25. Section 18089 of the Health and Safety Code is amended to read:

18089. In the event application is made in this state for registration of a manufactured home, mobilehome, commercial coach, or truck camper and the department is not satisfied as to the ownership of the manufactured home, mobilehome, commercial coach, or truck camper or the existence of foreign liens thereon, then the department may register the manufactured home, mobilehome, commercial coach, or truck camper and issue a registration card with distinctive markings, but shall withhold issuance of a California certificate of title, unless the applicant presents documents sufficient to reasonably satisfy the department of the applicant's ownership of the manufactured home, mobilehome, commercial coach, or truck camper and the absence of any liens thereon or posts a bond pursuant to subdivision (a) of Section 18086.5.

SEC. 26. Section 18089.5 of the Health and Safety Code is amended to read:

18089.5. In the event the department refuses to grant an application for registration in this state of a manufactured home, mobilehome, commercial coach, or truck camper previously registered in another state, the department shall immediately return to the applicant all documents submitted by the applicant with the application.

SEC. 27. Section 18090 of the Health and Safety Code is amended to read:

18090. The department shall forthwith mail a notice of the filing of any application for registration of a manufactured home, mobilehome, commercial coach, or truck camper previously registered outside this state upon written request of the governmental officer, agency, or authority which made the last registration of the manufactured home, mobilehome, commercial coach, or truck camper outside this state. The notice shall contain the same data as required on the application filed with the department. This section shall not apply to manufactured homes, mobilehomes, commercial coaches, or truck campers last registered in a foreign province or country.

SEC. 28. Section 18090.5 of the Health and Safety Code is amended to read:

18090.5. (a) Except as otherwise provided in Section 18089, the department, upon the original registration of a manufactured home, mobilehome, commercial coach, or truck camper, shall establish a permanent title record for the manufactured home, mobilehome, commercial coach, or truck camper and shall issue a certificate of

title to the legal owner and a registration card to the registered owner.

(b) The department shall designate on the permanent title record as the legal owner the holder, if any, of the perfected security interest in the manufactured home, mobilehome, commercial coach, or truck camper. If there is more than one perfected security interest, the holder of the security interest designated in the application for the original registration as the legal owner shall be the legal owner.

(c) The department shall designate on the permanent title record as junior lienholders those holders, if any, of perfected security interests in the manufactured home, mobilehome, commercial coach, or truck camper other than the legal owner. If there is more than one junior lienholder, they shall be listed on the permanent title record in the same order as is designated in the application for the original registration. A copy of the registration card shall be sent to each junior lienholder and the creditor identified on the manufacturer's certificate of origin.

(d) If an application for registration specifies more than one secured creditor and the department is unable to determine from the application which creditor is to be the legal owner, or the seniority order in which junior lienholders are to be designated, the department shall so notify the applicant for registration and all secured creditors and shall withhold registration or transfer of registration until the department receives the designation.

(e) The certificate of title and the registration card issued pursuant to this section shall show the name and address of all registered owners, the legal owner, if any, and all junior lienholders, if any, with the junior lienholders listed in the same order as designated on the permanent title record.

SEC. 29. Section 18091.5 of the Health and Safety Code is amended to read:

18091.5. The registration card for a manufactured home, mobilehome, commercial coach, or truck camper shall contain all of the following:

(a) The date issued.

(b) The information required by Section 18085 in the application for registration.

(c) The registration number assigned to the manufactured home, mobilehome, commercial coach, or truck camper.

(d) The date of expiration, where applicable.

(e) Any other information as the department prescribes by regulation.

The department may modify the form, arrangement, and information appearing on the registration card and may provide for standardization and abbreviations whenever the efficiency of the department will be promoted thereby, except that general delivery or post office boxes shall not be permitted as the address of the registered owner unless there is no other address.

SEC. 30. Section 18092 of the Health and Safety Code is amended to read:

18092. (a) Every manufactured home, mobilehome, commercial coach, or truck camper subject to registration shall be issued a registration decal. The design of the decal shall be determined by the director and the decal shall be issued by the department. The decal shall be at least 2½ inches high and 2½ inches wide.

(b) The decals shall be applied to the outside of the mobilehome or commercial coach in a location within 15 inches of the lower front right-hand side which is clearly visible and these decals shall be maintained in a condition so as to be clearly legible. The decals shall be applied to the lower rear left-hand side of the truck camper.

(c) The director, after consultation with county assessors, shall prescribe a registration decal for manufactured homes and mobilehomes subject to registration which clearly indicates, by color or otherwise, whether or not the manufactured home or mobilehome is subject to annual registration with the department or is subject to local property taxation, and this decal shall have provisions for indicating the current status of any registration fee.

SEC. 31. Section 18092.5 of the Health and Safety Code is amended to read:

18092.5. The department may refuse registration or the renewal or transfer of registration of a manufactured home, mobilehome, commercial coach, or truck camper in the following instances:

(a) If the department is not satisfied that the applicant is entitled thereto under this part.

(b) If the applicant has failed to furnish the department with information required in the application or reasonable additional information required by the department.

SEC. 32. Section 18093 of the Health and Safety Code is amended to read:

18093. (a) At the time of release of a new manufactured home, mobilehome, or commercial coach to any person, the manufacturer shall prepare a certificate of origin, in quadruplicate, on numbered forms prepared by the department which shall contain all of the following:

(1) The name and address of the manufacturer or fabricator.

(2) The manufacturer's identification number.

(3) The trade name of the manufactured home, mobilehome, or commercial coach.

(4) The model name or number of the manufactured home, mobilehome, or commercial coach.

(5) The shipping weight of the unit or separate sections of the unit in the case of multisection manufactured homes, mobilehomes, or commercial coaches.

(6) The length and width of the unit or separate sections of the unit in the case of multisection manufactured homes, mobilehomes, or commercial coaches.

(7) The serial number of the unit or separate sections of the unit

in the case of multisection manufactured homes, mobilehomes, or commercial coaches.

(8) The date of manufacture.

(9) The United States Department of Housing and Urban Development label number or department insignia number affixed to the unit or separate sections of the unit in the case of multisection manufactured homes, mobilehomes, or commercial coaches, as applicable.

(10) The date that the ownership was transferred from the manufacturer or fabricator and to whom the ownership is transferred.

(11) A certification of facts signed by a responsible agent of the manufacturer or fabricator.

(12) The name and business address of any person known to the manufacturer or fabricator who, as to the purchaser, has a purchase money security interest in the manufactured home, mobilehome, commercial coach, or truck camper as contemplated by Section 9107 of the Commercial Code.

(13) Any other information as the department may reasonably require.

(b) The manufacturer or fabricator shall forward the original and duplicate copies of the certificate of origin by first-class mail as follows:

(1) The original shall be forwarded to the purchase money creditor unless there is none in which event the original shall be forwarded to the purchaser.

(2) The first copy shall be forwarded to the department at the address printed on the form.

(3) The second copy shall accompany the manufactured home, mobilehome, or commercial coach to its destination.

(4) The third copy shall be retained by the manufacturer or fabricator for its permanent records.

(c) The department may establish regulations for the distribution, maintenance, accessibility, and surrender of certificates of origin required by this section.

SEC. 33. Section 18093.5 is added to the Health and Safety Code, to read:

18093.5. The manufacturer of a truck camper, the owner or purchaser of which chooses to register it pursuant to Section 18075.7, shall prepare a certificate of origin containing all of the information required by Section 18093 and provide the purchaser with an original copy.

SEC. 34. Section 18098 of the Health and Safety Code is amended to read:

18098. Whenever any person, after making application for the registration of a manufactured home, mobilehome, commercial coach, or truck camper required to be registered under this part, or after obtaining registration or being recorded on the permanent title record of the manufactured home, mobilehome, commercial coach,

or truck camper registration as registered owner, legal owner, or junior lienholder, moves or acquires a new permanent address, or where a person other than the registered owner assigns his or her interest to any other person different from that shown on the certificate of title, the registration card, or the application therefor, that person shall, within 10 days thereafter, notify the department of both the old and new address. No penalty shall arise from failure to notify the department pursuant to this section, nor shall the department or any other person have liability for any notification required by law or regulation other than first-class mailing to the permanent address of record.

SEC. 35. Section 18098.5 of the Health and Safety Code is amended to read:

18098.5. Any registered owner of a manufactured home, mobilehome, commercial coach, or truck camper who moves or acquires a new permanent address different from the address shown upon the registration card issued for the manufactured home, mobilehome, commercial coach, or truck camper shall, within 10 days, mark out the former address shown on the face of the card and indelibly write or type the new address on the face of the card immediately below the former address and initial this change.

SEC. 36. Section 18100.5 of the Health and Safety Code is amended to read:

18100.5. (a) If the title or interest of a registered owner, legal owner, or junior lienholder in a manufactured home, mobilehome, commercial coach, or truck camper for which an original registration under this part has been obtained is transferred to another person, or, if all outstanding secured obligations previously held by a legal owner registered on the original or a subsequent registration or by a junior lienholder are satisfied and the person no longer has any obligation to extend credit, incur obligations, or otherwise give value to be secured by the manufactured home, mobilehome, commercial coach, or truck camper, or, if a security interest is taken in a manufactured home, mobilehome, commercial coach, or truck camper after the permanent title record has been established, the department shall be notified within 20 days and shall act as follows:

(1) If the title or interest of a registered owner or legal owner is being transferred, the transferor and the transferee of the title or interest shall execute in the manner prescribed by the department the certificate of title for the manufactured home, mobilehome, commercial coach, or truck camper. If the transfer is made by a registered owner and the transferee is to assume the underlying indebtedness secured by the manufactured home, mobilehome, commercial coach, or truck camper and owed to a legal owner, the legal owner shall state on the certificate of title that legal title and interest are to be retained. The certificate of title so executed shall be fowarded to the department with appropriate fees. The department shall appropriately amend the permanent title record of the manufactured home, mobilehome, commercial coach, or truck

camper, forward a new certificate of title reflecting the change to the permanent title record to the legal owner by first-class mail, and forward an amended registration card reflecting the change to the permanent title record to the registered owner with copies to all secured parties shown on the permanent title record. If there is no legal owner, the new certificate of title and amended registration card shall be forwarded to the registered owner.

(2) If the interest of a junior lienholder is being transferred, the transferor and the transferee shall execute in a manner prescribed by the department the registration card, and the card so executed shall be forwarded to the department with appropriate fees. The department shall appropriately amend the permanent title record and forward an amended registration card reflecting the change to the permanent title record to the registered owner with copies to all secured parties shown on the permanent title record.

(3) If a creditor acquires a security interest in a manufactured home, mobilehome, commercial coach, or truck camper after the permanent title record has been established, the department shall amend the permanent title record to reflect the interest as that of a legal owner or as that of a junior lienholder, as appropriate. If the permanent title record already reflects the interest of one or more junior lienholders, the creditor then perfecting its interest pursuant to this section shall be designated as the most junior lienholder.

(4) If a legal owner no longer holds an outstanding obligation or a commitment to make advances, incur obligations, or otherwise give value to be secured by the manufactured home, mobilehome, commercial coach, or truck camper, the legal owner shall indicate its release of lien by appropriately signing the certificate of title for the manufactured home, mobilehome, commercial coach, or truck camper and forward the certificate of title to the department with appropriate fees. The department shall appropriately amend the permanent title record for the manufactured home, mobilehome, commercial coach, or truck camper, deliver a new certificate of title reflecting the change to the permanent title record to the new legal owner, if any, by first-class mail, and forward an amended registration card reflecting the change to the permanent title record to the registered owner with copies to all secured parties shown on the registration card. For purposes of this paragraph, the following person shall be designated as the new legal owner:

(A) The junior lienholder, if any.

(B) If there is more than one junior lienholder, the junior lienholder whose statement of lien was designated as the most senior junior lienholder on the permanent title record shall be the legal owner.

(5) If a junior lienholder no longer holds an outstanding obligation or a commitment to make advances, incur obligations, or otherwise give value to be secured by the manufactured home, mobilehome, commercial coach, or truck camper, the junior lienholder shall forward to the department, on the appropriate form approved by the

department, a statement of lien release with appropriate fees. The department shall appropriately amend the permanent title record for the manufactured home, mobilehome, commercial coach, or truck camper and forward an amended registration card reflecting the change to the permanent title record to the registered owner with copies to all secured parties shown on the permanent title record.

(b) (1) Notwithstanding subdivision (d) of this section and subdivisions (c) and (e) of Section 18080.7, for the 120-day period beginning upon the receipt by the department of the notice of escrow and appropriate fee provided by paragraph (1) of subdivision (d) of Section 18035, or until the escrow is cancelled or until the escrow closes and the resulting transfers of ownership interests and transfers or creation of legal owner and junior lienholder interests are acknowledged by the department as amendments to the permanent title record of the manufactured home or mobilehome, whichever is earlier, the department, except at its sole discretion, shall impose a moratorium on all of the following:

(A) On any other amendments to the permanent title record of the manufactured home or mobilehome for the purpose of transferring any ownership interest or transferring or creating any security interest in the manufactured home or mobilehome.

(B) On issuing any duplicate, substitute, or new certificate of title, registration card, or copy of a registration card regarding the manufactured home or mobilehome.

(C) On subsequent notices of escrow openings.

(2) The department shall, upon receipt of the notice of escrow and the appropriate fee, forward to the escrow agent an acknowledgement of receipt and a true and correct copy of the permanent title record as of the commencement of the period of moratorium.

(c) If a secured party fails to comply with the provisions of subdivision (a) relating to releases of lien and the secured party thereafter receives a written demand from the registered owner that the secured party release its lien, the secured party shall be liable to the registered owner for all actual damages suffered by the registered owner by reason of the failure to release the lien unless the secured party, within 20 days of receipt of the demand, complies with the requirements of subdivision (a), except where the secured party has reasonable cause for noncompliance.

(d) Whenever the title or interest of the registered owner or legal owner in or to a manufactured home, mobilehome, commercial coach, or truck camper registered under this part passes to another in a manner other than by voluntary transfer, the new registered owner or legal owner may obtain a transfer of registration upon application therefor and upon presentation of the last certificate of title, if available, and current registration card, if available, issued for the manufactured home, mobilehome, commercial coach, or truck camper and any instruments or documents of authority or certified

copies thereof as may be required by the department, or required by law, to evidence or effect the transfer of title or interest in that case. The department, when satisfied of the genuineness and regularity of the transfer, shall give notice by first-class mail to the registered owner, the legal owner, if any, and all junior lienholders, if any, of the manufactured home, mobilehome, commercial coach, or truck camper as shown on the permanent title record, and, 15 days after the mailing of the notice, if still satisfied of the genuineness and regularity of the transfer, shall amend the permanent title record of the manufactured home, mobilehome, commercial coach, or truck camper, issue a new current registration card and certificate of title, and forward copies of the current registration card to all junior lienholders.

(e) The department shall not transfer registration until the applicant complies with the requirements of Section 18092.7.

SEC. 37. Section 18101 of the Health and Safety Code is amended to read:

18101. No transfer of the title of a manufactured home, mobilehome, commercial coach, or truck camper registered under this code shall be effective until the transferor has made proper endorsement and delivery of the certificate of title and delivery of the registration card to the transferee as provided in this code.

SEC. 38. Section 18101.5 of the Health and Safety Code is amended to read:

18101.5. When the transferee of a manufactured home, mobilehome, commercial coach, or truck camper is a dealer who holds it for resale and moves it upon the highways under transportation decals, the dealer is not required to make application for transfer, but upon transferring his or her title or interest to another person, he or she shall comply with this chapter.

SEC. 39. Section 18102 of the Health and Safety Code is amended to read:

18102. Upon the death of a registered or legal owner of a manufactured home, mobilehome, commercial coach, or truck camper registered under this part, without the decedent leaving other property necessitating probate, unless the manufactured home, mobilehome, commercial coach, or truck camper is, by will, otherwise bequeathed, and irrespective of the value of the manufactured home, mobilehome, commercial coach, or truck camper the surviving heir or beneficiary in the order named in Section 630 of the Probate Code may secure a transfer of registration of the title or interest of the decedent upon presenting to the department all of the following:

(a) The appropriate certificate of title and registration card, if available.

(b) A certified statement of the heir or beneficiary setting forth his or her interest in the estate of the decedent.

(c) The names and addresses of any other heirs or beneficiaries.

(d) If required by the department, a certificate of the death of the

decedent.

(e) A statement that there are no creditors of the decedent or, if so, that the creditors of the decedent have been paid in full or their claims have been otherwise discharged.

SEC. 40. Section 18102.5 of the Health and Safety Code is amended to read:

18102.5. If application is made to the department for a transfer of registration of a manufactured home, mobilehome, commercial coach, or truck camper to a new registered or legal owner and if the applicant is unable to present the certificate of title or registration card issued for the manufactured home, mobilehome, commercial coach, or truck camper because it is lost or otherwise not available, the department may receive the application and investigate the circumstances of the case and may require the filing of certifications or other information. When the department is satisfied that the applicant is entitled to a transfer of registration, the department may transfer the registration of the manufactured home, mobilehome, commercial coach, or truck camper and issue a new certificate of title and registration card to the person or persons found to be entitled thereto.

SEC. 41. Section 18103 of the Health and Safety Code is amended to read:

18103. Whenever application is made to the department for a transfer of registration of a manufactured home, mobilehome, commercial coach, or truck camper to a new registered or legal owner and the applicant is unable to present the registration card issued for the manufactured home, mobilehome, commercial coach, or truck camper because it is in the possession of the department upon an application for renewal of registration, the department may transfer the registration of the manufactured home, mobilehome, commercial coach, or truck camper upon production of the properly endorsed certificate of title to the manufactured home, mobilehome, commercial coach, or truck camper and a temporary receipt, on a form prescribed by the department containing any information that the department deems necessary, including, but not limited to, the registration decal number assigned to the manufactured home, mobilehome, commercial coach, or truck camper and the serial number of the manufactured home, mobilehome, commercial coach, or truck camper and accompanied by the amount of fees for renewal of the registration.

SEC. 42. Section 18105 of the Health and Safety Code is amended to read:

18105. (a) Except as otherwise provided in subdivision (e) or (g), the security interest of the legal owner has priority over conflicting security interests of junior lienholders and holders of security interests perfected pursuant to Section 9305 of the Commercial Code and of unperfected security interests in a manufactured home, mobilehome, commercial coach, or truck camper subject to registration under this part and its proceeds.

(b) Except as otherwise provided in subdivision (e) or (g), the security interest of a junior lienholder has priority over conflicting security interests of holders of security interests perfected pursuant to Section 9305 of the Commercial Code and of unperfected security interests in a manufactured home, mobilehome, commercial coach, or truck camper subject to registration under this part and its proceeds. Conflicting security interests of junior lienholders rank in the order designated on the permanent title record maintained by the department.

(c) Except as otherwise provided in subdivision (e) or (g), a security interest perfected pursuant to Section 9305 of the Commercial Code has priority over conflicting unperfected security interests in a manufactured home, mobilehome, commercial coach, or truck camper subject to registration under this part and its proceeds.

(d) Except as otherwise provided in subdivision (e) or (g), conflicting unperfected security interests in a manufactured home, mobilehome, commercial coach, or truck camper subject to registration under this part and its proceeds rank according to priority in time of attachment.

(e) (1) Except as otherwise provided in subdivision (g), the security interest of any secured party shall not have priority over any security interest of a party having a subordinate security interest by virtue of the preceding provisions of this section to the extent that the otherwise senior secured obligation was incurred subsequent to receipt by that creditor of actual or constructive notice of the existence of the otherwise junior security interest unless the obligation arose pursuant to the terms of a security agreement for the purpose of preserving the collateral or protecting the interest of the senior secured party therein or unless the otherwise senior secured obligation was incurred under a binding agreement that the credit would be extended by that creditor.

(2) For purposes of this subdivision receipt of a copy of the registration certificate which reflects the existence of a security interest shall constitute constructive notice of the existence of the security interest. In interpreting the provisions of this subdivision but for no other purposes, it is the intent of the Legislature that the priorities among conflicting security interests be determined in accordance with the rules of law applicable to priority as to interests in real property.

(f) Except as otherwise provided in subdivision (g), the security interest of the legal owner or a junior lienholder has priority over a conflicting security interest of a holder of a perfected security interest in a manufactured home, mobilehome, commercial coach, or truck camper subject to registration under this part which is inventory, including the proceeds of the inventory. The rules of priority regarding conflicting security interests of holders of a perfected security interest in a manufactured home, mobilehome, commercial coach, or truck camper subject to registration under this

part which is inventory and of holders of security interests perfected pursuant to Section 9305 of the Commercial Code or unperfected security interests in a manufactured home, mobilehome, commercial coach, or truck camper subject to registration under this part shall be governed by Section 9312 of the Commercial Code.

(g) If the holders of two or more of the several security interests shall otherwise agree among themselves, the relative priorities among the holders of security interests who have so agreed shall be determined according to this agreement.

SEC. 43. Section 18105.5 of the Health and Safety Code is amended to read:

18105.5. A legal owner or junior lienholder may assign title or interest to a manufactured home, mobilehome, commercial coach, or truck camper subject to registration under this part without the consent, and without affecting the interest, of the registered owner or other lien holders.

SEC. 44. Section 18106 of the Health and Safety Code is amended to read:

18106. (a) As used in this section, "lien creditor" means a creditor who has acquired a lien on a manufactured home, mobilehome, commercial coach, or truck camper subject to registration under this part by attachment, levy, or the like and includes an assignee for benefit of creditors from the time of assignment, and a trustee in bankruptcy from the date of the filing of the petition, or a receiver in equity from the time of appointment, as contemplated by subdivision (3) of Section 9301 of the Commercial Code.

(b) Except as provided in subdivision (c), an unperfected security interest in a manufactured home, mobilehome, commercial coach, or truck camper subject to registration under this part is subordinate to the rights of a person who becomes a lien creditor before the security interest is perfected.

(c) If a security interest in a manufactured home, mobilehome, commercial coach, or truck camper becomes perfected as contemplated by subdivision (a) of Section 18080.7, the security interest is senior to the rights of a lien creditor which arise between the time the security interest attaches and the time of perfection.

(d) A person who becomes a lien creditor while a security interest in a manufactured home, mobilehome, commercial coach, or truck camper is perfected by any of the means contemplated by subdivision (b) of Section 18080.7 takes subject to the perfected security interest only to the extent that it secures advances either made before that person becomes a lien creditor or made thereafter which would otherwise be senior to a competing security interest as provided in subdivision (e) of Section 18105.

SEC. 45. Section 18108 of the Health and Safety Code is amended to read:

18108. If any registration card or registration decal is stolen, lost, mutilated, or illegible, the registered owner of the manufactured

home, mobilehome, commercial coach, or truck camper for which it was issued, as shown by the records of the department, shall immediately make application for, and may, upon the applicant furnishing information satisfactory to the department and paying the required fees, obtain a duplicate, substitute, or new registration under a new registration number, as determined by the department.

SEC. 46. Section 18108.5 of the Health and Safety Code is amended to read:

18108.5. If any certificate of title is stolen, lost, mutilated, or illegible, the legal owner of the manufactured home, mobilehome, commercial coach, or truck camper for which it was issued, as shown by the records of the department, shall immediately make application for, and may, upon payment of required fees and the applicant furnishing information satisfactory to the department, obtain a duplicate certificate of title.

SEC. 47. Section 18109 of the Health and Safety Code is amended to read:

18109. Except as otherwise provided in this part, every registration card for a manufactured home, mobilehome, commercial coach, or truck camper subject to annual registration shall expire at midnight on the expiration date indicated on the registration card and shall be renewed prior to that expiration. The department, upon presentation by the registered owner of the registration card or potential registration card last issued and receipt of the proper renewal fees, shall renew the registration of a manufactured home, mobilehome, commercial coach, or truck camper.

SEC. 48. Section 18114 of the Health and Safety Code is amended to read:

18114. A registration fee of eleven dollars ($11) shall be paid the department at the time of registration or renewal for each transportable section of a manufactured home, mobilehome, commercial coach, or truck camper, registered pursuant to this part. A registration fee due for the annual renewal of registration is delinquent if not paid on or before the expiration date of the previous registration year. A registration fee due for any application for registration, other than for annual renewal, is delinquent if not paid within 20 days after the date the fee became due. A charge of three dollars ($3) for each transportable section shall be added to delinquent registration fees. No additional charge shall be imposed on a registration fee received by mail after the date of delinquency if the fee was, by evidence of postmark, placed in the mail before midnight on the day prior to the day the fee became delinquent.

SEC. 49. Section 18117 of the Health and Safety Code is amended to read:

18117. An application for registration under this part of a manufactured home, mobilehome, commercial coach, or truck camper previously registered outside of this state shall be accompanied by payment of the amount required to be paid under

Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code with respect to the use of the manufactured home, mobilehome, commercial coach, or truck camper by the applicant.

SEC. 50. Section 18117.5 of the Health and Safety Code is amended to read:

18117.5. The transfer fee is delinquent if not paid within 20 days of receipt by the transferee of a properly executed certificate of title for the manufactured home, mobilehome, commercial coach, or truck camper.

SEC. 51. Section 18123 of the Health and Safety Code is amended to read:

18123. (a) The department shall withhold the registration or the transfer of registration of any manufactured home, mobilehome, commercial coach, or truck camper sold at retail to any applicant by any person, other than a manufactured home, mobilehome, commercial coach, or truck camper manufacturer or dealer holding a license and certificate issued as provided for by this part, until the applicant pays to the department the use tax measured by the sales price of the manufactured home, mobilehome, commercial coach, or truck camper as required by the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), together with penalty, if any, unless the State Board of Equalization finds that no use tax is due. If the applicant so desires, he or she may pay the use tax and penalty, if any, to the department so as to secure immediate action upon his or her application for registration or transfer of registration, and thereafter he or she may apply through the department to the State Board of Equalization under the provisions of the Sales and Use Tax Law for a refund of the amount so paid.

(b) The department shall transmit to the State Board of Equalization all collections of use tax and penalty made under this section. This transmittal shall be made at least monthly, accompanied by a schedule, in the form the department and board may prescribe.

(c) The State Board of Equalization shall reimburse the department for its costs incurred in carrying out the provisions of this section. The reimbursement shall be effected under agreement between the agencies, approved by the Department of Finance.

(d) In computing any use tax or penalty thereon under the provisions of this section, a fraction of a dollar shall be disregarded, unless it exceeds fifty cents ($0.50), in which case it shall be treated as the next higher full dollar. Computation of any penalty shall be made from the tax after the same has been computed as provided in this section. Any tax or penalty in the amount of one dollar ($1) or less shall be one dollar ($1). Payment of tax and penalty on this basis shall be deemed full compliance with the requirements of the Sales and Use Tax Law insofar as the requirements are applicable to the use of manufactured homes, mobilehomes, commercial coaches, or truck campers to which this section relates.

SEC. 52. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1528

An act to amend Sections 18013, 18035.1, 18040.5, 18045.5, 18054, 18055, 18060, 18061.5, 18062, 18063, and 18065 of, to add Section 18035.3 to, and to add Article 2.5 (commencing with Section 18056) to Chapter 7 of Part 2 of Division 13 of, the Health and Safety Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 18013 of the Health and Safety Code is amended to read:

18013. (a) "Salesperson" means a person employed by a dealer and not otherwise expressly excluded by this section, who does one or more of the following:

(1) For commission, money, profit, or other thing of value, sells, exchanges, buys, leases, or offers for sale, negotiates, or attempts to negotiate, a sale, lease, or exchange of an interest in a manufactured home, mobilehome, or commercial coach.

(2) Induces or attempts to induce any person to buy, lease, or exchange an interest in a manufactured home, mobilehome, or commercial coach, and who receives or expects to receive a commission, money, brokerage fees, profit, or any other thing of value, from either the seller, lessee, or purchaser of the manufactured home, mobilehome or commercial coach.

(3) Exercises managerial control over the business of a licensed manufactured home, mobilehome, or commercial coach dealer or who supervises salespersons employed by a licensed dealer, whether compensated by salary or commission, including, but not limited to, any person who is employed by the dealer as a general manager, assistant general manager, sales manager, or in any capacity, regardless of title, where the individual reviews, advises, supervises, or oversees, sales contracts, credit applications, or any other documents pertaining to the sale, purchase, or lease of manufactured homes or mobilehomes, or any employee of a licensed manufactured

home, mobilehome, or commercial coach dealer who negotiates with or induces a customer to enter into a security agreement, lease, or purchase agreement or purchase order for the sale of a manufactured home, mobilehome, or commercial coach on behalf of the licensed manufactured home, mobilehome, or commercial coach dealer.

(b) The term "salesperson" does not include any of the following:

(1) A representative of an insurance company, finance company, bank, savings and loan association, or public official, who in the regular course of business, is required to dispose of, or sell manufactured homes, mobilehomes, or commercial coaches under a contractual right or obligation of the employer, or in the performance of an official duty, or under authority of any court of law, as long as the sale is for the purpose of protecting the seller from any loss or is pursuant to the authority of a court of competent jurisdiction.

(2) A person who is licensed as a manufacturer or distributor.

(3) A person exclusively employed in a bona fide business of exporting manufactured homes, mobilehomes, or commercial coaches, or of soliciting orders for the sale and delivery of mobilehomes or commercial coaches outside the territorial limits of the United States.

(4) A person not engaged in the purchase or sale of manufactured homes, mobilehomes, or commercial coaches as a business, disposing of manufactured homes, mobilehomes, or commercial coaches acquired for the person's own use, or for use in business when they have been so acquired and used in good faith and not for the purpose of avoiding the provisions of this part.

(5) A person licensed as a manufactured home, mobilehome, or commercial coach dealer doing business as a sole ownership or a member of a partnership or a stockholder and director of a corporation licensed as a manufactured home, mobilehome, or commercial coach dealer under this part, as long as the person engages in the activities of a salesperson exclusively on behalf of the sole ownership or partnership or corporation in which the person owns an interest or stock, and the person owning the stock is a director of the corporation; otherwise, the person shall be deemed to be a manufactured home, mobilehome, or commercial coach salesperson and subject to the provisions of Section 18045.

SEC. 2. Section 18035.1 of the Health and Safety Code is amended to read:

18035.1. As a part of the documents executed for the purchase or sale of a new or used manufactured home or mobilehome, the dealer and purchaser shall sign a receipt for deposit, a copy of which shall be provided to the purchaser and a copy shall be retained by the dealer for not less than three years. It shall state at least the following in type not less than 6-point type size:

(a) A statement that the purchaser shall receive a copy of the purchase contract and receipt for deposit.

(b) A statement that all portions of the purchase documents and receipt for deposit shall be completed prior to obtaining the purchaser's signature.

(c) A statement of the specific amounts of the deposit, downpayment, or other category of funds required to be placed in escrow prior to closing, and a warning that the deposit may be withheld in escrow in case of a dispute between the purchaser and the dealer.

(d) A statement that the amounts of the deposit and downpayment shall be agreed upon by the purchaser and dealer and shall have been entered on the purchase documents and receipt of deposit prior to the purchaser's signing.

(e) Sections 18035, 18035.1, and 18035.3 of this code and Section 1797.3 of the Civil Code reprinted in their entirety.

(f) A statement that any oral promises or commitments that have been made are not binding unless they appear in writing on the purchase documents.

(g) A warning that a warranty document complying with Section 1797.3 of the Civil Code shall be provided to the purchaser of a new manufactured home or mobilehome immediately after signing the purchase documents.

(h) A statement that the terms and duration of any other warranty, not required by law, offered by the dealer shall be in writing.

(i) A statement that, if the purchaser has any complaints with respect to sales practices, delivery, warranty, or other matters related to the manufactured home or mobilehome, he or she may seek administrative relief from the department or legal relief in a court of competent jurisdiction.

(j) A statement that the sale will not be complete until the escrow for the sale closes.

For the sale of a manufactured home or mobilehome not subject to registration by the department, the dealer shall provide a statement of fact containing the information specified in subdivisions (f), (g), (h), (i), and (j) as part of the purchase documents.

Where the sale of a new or used manufactured home or mobilehome subject to registration under this part does not involve a dealer, the department, by regulation, may require the seller and buyer to execute a receipt for deposit containing whatever information of the nature described in this section, the department deems appropriate.

SEC. 3. Section 18035.3 is added to the Health and Safety Code, to read:

18035.3. (a) For every sale by a dealer of a new or used manufactured home or mobilehome, either the purchase order, conditional sale contract, or other document evidencing the purchase thereof, or any attachment to such a purchase document signed and dated by the purchaser, shall contain the following:

(1) A description of the manufactured home or mobilehome, a

description and the cash price of each accessory, structure, or service included with the purchase, and the total cash price for the purchase. The statement shall also state whether the purchase price includes or excludes the towbar, wheels, wheel hubs, tires, and axles and, if so, the price thereof.

(2) The amount, if any, charged by the dealer for documentary preparation and, if a documentary preparation charge is imposed, a notice advising the purchaser that the charge is not a governmental fee.

(3) A notice in type no smaller than 8-point that complaints concerning the purchase shall be referred to the dealer and, if the complaint is not resolved, may be referred to the Department of Housing and Community Development, Division of Codes and Standards, Occupational Licensing, Post Office Box 31, Sacramento, California, 95801 (telephone number (800) 952-5275).

(4) A notice, in at least 10-point bold type reading as follows:

(A) Do NOT sign the purchase agreement before you read it or if it contains any blank spaces to be filled in.

(B) You are entitled to a completely filled-in copy of that agreement and, if purchasing a manufactured home or mobilehome covered by a warranty, a copy of the warranty.

The disclosures required by this subdivision need not be contained in the same document.

(b) A failure to disclose pursuant to this section shall not be the basis for rescission of a conditional sale contract.

SEC. 4. Section 18040.5 of the Health and Safety Code is amended to read:

18040.5. The department, after notice and hearing, may suspend or revoke a dealer's license upon determining that the dealership has committed any of the acts or omissions specified in Section 18062.

SEC. 5. Section 18045.5 of the Health and Safety Code is amended to read:

18045.5. (a) The department shall not issue a dealer's license to any applicant therefor who does not have an established place of business.

(b) The established place of business shall have an office and, in the case of a dealer or manufacturer, shall have a display or manufacturing area defined by department regulations situated on the same property where the business peculiar to the type of license issued by the department is or may be transacted. When a room or rooms in a hotel, roominghouse, apartment house building, or a part of any single-unit or multiple-unit dwelling house is used as an office or offices of an established place of business, the room or rooms shall be devoted exclusively to, and occupied for, the office or offices of the licensee, shall be located on the ground floor, and shall provide a direct entrance into the room or rooms from the exterior of the building.

(c) The established place of business shall be open for inspection of the premises, pertinent records, and manufactured homes,

mobilehomes, or commercial coaches by any department representative during business hours.

SEC. 6. Section 18054 of the Health and Safety Code is amended to read:

18054. (a) The department, upon granting a license, shall issue to the applicant a license with a size and format established by the department containing at least the applicant's name and address, the general distinguishing number assigned to the applicant and expiration date. For salespersons, the license shall also state the name and address of the employing dealer.

(b) Upon presentation of authority from the Public Utilities Commission showing valid status as a transporter, a transporter may apply for, and the department, subject to the requirements of Section 18063.8, shall issue, transportation decals or other visual displays which shall have a general distinguishing number assigned to the applicant. The department may issue transportation decals or other visual displays to federal, state, city, or county agencies for intermittent relocations of exempt manufactured homes, mobilehomes, or commercial coaches, or to dealers, distributors, or manufacturers for the delivery of manufactured homes, mobilehomes, or commercial coaches. Fees for the decal or visual display shall be established by the department and shall be paid by the applicant at the time the application is made.

(c) A manufacturer, dealer, or distributor for the purpose of transporting manufactured homes, mobilehomes, or commercial coaches requiring delivery or relocation while in inventory, may apply for, and the department shall, subject to the requirements of Section 18063.8, issue transportation decals or other visual displays which shall have the license number assigned pursuant to this section. Fees for transportation decals or visual display, shall be established by the department and paid by the applicant at the time the application is made.

(d) The department shall also furnish books and forms as it may determine necessary. All books, forms, and licenses and decals shall remain the property of the department and may be taken up at any time for inspection.

(e) A licensee shall promptly obtain a replacement license when the original is either lost or mutilated, and, in the case of a salesperson, when changing his or her name, employment, or residence address.

(f) Whenever the department cancels, suspends, or revokes a license or decal, the licensee or person in possession shall immediately return the license, documents, transportation decals, report of sales books, certificates, and other evidence of licensure to the department.

SEC. 7. Section 18055 of the Health and Safety Code is amended to read:

18055. (a) The department may require that fees shall be paid to the department for the issuance or renewal of a license to do business

as a licensee. The fees shall reimburse the department for costs incurred in administration and enforcement of this chapter. The department may refuse to renew a license if a licensee has failed to pay any fees or penalties due the department pursuant to this part.

(b) Any person required to be licensed under this chapter who fails to make application for a license or decal when required shall, in addition to the fees required pursuant to subdivision (a), pay a penalty of 50 percent of the license or decal fee.

SEC. 8. Article 2.5 (commencing with Section 18056) is added to Chapter 7 of Part 2 of Division 13 of the Health and Safety Code, to read:

Article 2.5. Continuing Education

18056. The Legislature has determined that it is in the public interest for consumer protection and service that all manufactured housing dealers and salespersons licensed under the provisions of this part comply with the continuing education requirements adopted by department regulations pursuant to this article.

18056.1. In carrying out its duties under this article, the department shall take reasonable steps to solicit the assistance and advice of persons who are experts in the areas of mobilehome and manufactured housing and in education in the areas of mobilehome and manufactured housing, including the needs and benefits of continuing education as provided for in this article.

18056.2. On or before July 1, 1985, the department shall adopt regulations to prescribe the following:

(a) A definition of basic requirements for continuing education of (1) 24 hours of attendance at approved educational courses, seminars, or conferences, or their equivalent, achieved during a two-year period preceding renewal application in the case of the dealer; and (2) 36 hours of attendance at approved educational courses, seminars, or conferences or their equivalent achieved during a three-year period preceding renewal application in the case of a salesperson.

(b) A basis and method of qualifying educational programs, the certification of attendance at which, or challenging the course of which, will satisfy the requirements of this article.

(c) A procedure for evaluation of petitions based on a claim of equivalency with the requirements of subdivision (a), and a reasonable standard by which activity would be judged equivalent, including, but not limited to, instruction in manufactured housing educational programs, law, or research.

(d) A system of control and reporting qualifying attendance.

(e) A statement of the conditions of exemption from the continuing education requirements established under this article, as well as a method of applying and qualifying for the exemption, for reason of health, military service, or other compelling cause.

In exercising the authority under this article, the department shall

establish standards which will assure reasonable currency of knowledge as a basis for a level of manufactured housing practice which will provide a high level of consumer protection and service. The standards shall include, where qualified, generally accredited educational institutions, private vocational schools, correspondence institutions, educational programs and seminars of professional societies and organizations, other organized educational programs or technical subjects, or equivalent offerings.

18056.3. The department may amend or repeal any regulation adopted pursuant to this article in the same manner as provided for adoption of regulations, except that no amendment or repeal shall operate to deprive any licensee of the right to submit qualifying education completed pursuant to the amended or repealed regulation during his or her current license term, as a basis for license renewal.

18056.4. On or after January 1, 1987, no dealer's or salesperson's license shall be renewed unless the department finds that the applicant for renewal has completed the continuing education required by this article. Any denial of license renewal shall be subject to the provisions of Article 2 (commencing with Section 18050).

18056.5. When the department finds that the evidence submitted in good faith by an applicant for a renewal license does not in fact qualify, it may extend the license for 90 days to allow the applicant to submit additional evidence to comply with this article. When the renewal license is issued during a grace period, it shall expire at the regular time otherwise provided for in this part.

SEC. 9. Section 18060 of the Health and Safety Code is amended to read:

18060. With respect to business operations, it is unlawful to do any of the following:

(a) Make, or knowingly or negligently permit, any illegal use of any special permits, transportation decals, or report of sales books issued to or in favor of a licensee or transporter.

(b) Submit a check, draft, or money order to the department for any obligation or fee due the department which is thereafter dishonored or refused payment upon presentation.

(c) Engage in the business for which the licensee is licensed without having in force and effect a good and sufficient bond as provided by this part. This prohibition is in addition to the automatic suspension remedy in Section 18046.

(d) Fail to notify the department, within 10 days, of any change in the ownership or corporate structure of the licensee, or of the employment or termination of a mobilehome or commercial coach salesperson.

SEC. 10. Section 18061.5 of the Health and Safety Code is amended to read:

18061.5. It is unlawful to do any of the following:

(a) Willfully violate any law, or any rule or regulation adopted by the department, relating to manufactured homes, mobilehomes, or

commercial coaches or the sale of manufactured homes, mobilehomes, or commercial coaches.

(b) Fail to comply within a reasonable time with any written order of the department or any law enforcement agency.

(c) Fail to meet the terms and conditions of a compromise agreement effected under the provisions of Section 18064.5.

(d) Cause or allow the existence of any of the conditions specified in Section 18050.5 as a cause for refusal to issue a license.

(e) Lend a license to any other person or knowingly permit the use thereof by another.

(f) Display or represent any license or transportation decal not issued to the person as being his or her license or transportation decal.

(g) Fail or refuse to surrender to the department, upon its lawful demand, any license, report of sales books, or transportation decal which is suspended, revoked, or canceled.

(h) Permit any unlawful use of a license, report of sales books, or transportation decal issued to a licensee or transporter.

(i) Photograph, photostat, duplicate, or in any way reproduce any license or facsimile thereof in such a manner that it could be mistaken for a valid license, or display or possess any photograph, photostat, duplicate, reproduction, or facsimile unless authorized by the provisions of this part.

(j) Accept or encourage sales arranged or negotiated by unlicensed persons or salespersons while not employed by the dealer. For the purposes of this section, employment by a dealer shall mean employment reported to the department pursuant to Section 18060.

SEC. 11. Section 18062 of the Health and Safety Code is amended to read:

18062. It is unlawful for a dealer to do any of the following:

(a) Enter into a listing agreement that does not include a specified date upon which the agreement is to terminate.

(b) Claim or take any secret or undisclosed amount of compensation, commission, fee, or profit prior to, or at the time that a contractual agreement is signed whereby all parties involved, after negotiation, have come to terms. However, this section shall not be construed to require the disclosure of any exclusive financial arrangements agreed upon between the dealer and any financial institution with regard to financial arrangements applicable solely to them.

(c) Exercise any provision which allows the dealer an option to purchase the manufactured home, mobilehome, or commercial coach that is the subject of an agreement whereby a consumer authorizes or employs the dealer to arrange for its sale, purchase, or exchange, unless the dealer has, prior to exercising the option, revealed in writing to the consumer the full amount of the dealer's profit in exercising the option and obtained the written consent of the consumer approving the amount of the profit.

(d) Fail to disclose any liens or encumbrances of which the dealer had knowledge on a manufactured home, mobilehome, or commercial coach.

SEC. 12. Section 18063 of the Health and Safety Code is amended to read:

18063. It is unlawful for a salesperson to do any of the following:

(a) At the time of employment, not deliver to his or her employing dealer his or her salesperson's license.

(b) Fail to report in writing to the department every change of residence within five days of the change.

(c) Act or attempt to act as a salesperson while not employed by a dealer. For purposes of this subdivision, "employment by a dealer" means employment reported to the department pursuant to subdivision (d) of Section 18060.

SEC. 13. Section 18065 of the Health and Safety Code is amended to read:

18065. The licenses or permits provided for in this part shall be automatically canceled upon any of the following events:

(a) The abandonment of the established place of business of the licensee or the change thereof without notice to the department as provided in this part.

(b) The failure of the licensee to maintain an adequate bond or to procure and file another bond as provided in Section 18046 prior to the effective date of the termination by the surety of an existing bond.

(c) The voluntary or involuntary surrender for any cause by the licensee of the license. However, the surrender or cessation of business by the licensee, or the suspension of the corporate charter of the licensee by the state, shall not prevent the filing of an accusation for revocation or suspension of the surrendered license as provided in Section 18058 or the department's decision that the license should be suspended or revoked. Furthermore, this determination may be considered in granting or refusing to grant any subsequent license authorized by this part to the licensee, copartner, or any officer, director, or stockholder of the prior licensee.

(d) Notification that the person designated as licensee has changed.

(e) Suspension or cancellation of the corporate charter of the licensee by the state.

(f) Failure of a licensee to file an application for renewal for the license or permit before the date of expiration of the current license or permit.

(g) Submittal of a check, draft, or money order to the department for a license or license renewal fees due the department which is thereafter dishonored or refused payment upon presentation and which fees and penalty are not thereafter paid by cash, money order, or cashier's check prior to the expiration of the license.

SEC. 14. No appropriation is made and no reimbursement is

required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 15. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to prevent the occurrence of fraudulent activities by unlicensed mobilehome and manufactured home salespersons which adversely affect consumers and legally licensed salespersons and dealers, it is necessary for this act to take effect immediately.

SEC. 16. Section 3 of this act shall become operative on January 1, 1985.

CHAPTER 1529

An act making an appropriation to pay the claims of the Secretary of the State Board of Control, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. The sum of five hundred forty-four thousand two hundred twenty-five dollars and thirty-three cents ($544,225.33) is hereby appropriated from the funds indicated to the State Board of Control to pay the claims of the Secretary of the State Board of Control:

General Fund	$298,304.74
Fish and Game Preservation Fund	180,920.59
Item 8940-001-890, Budget Act of 1984	65,000.00
Total	$544,225.33

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to settle claims against the state and to end a hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 1530

An act to add Section 12668 to the Water Code, relating to flood protection, declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 12668 is added to the Water Code, to read:

12668. (a) The project for flood control on the San Joaquin River is adopted and authorized substantially in accordance with P.L. 98-63, at a federal cost of approximately five million dollars ($5,000,000), for the accomplishment of selective clearing and snagging work in the San Joaquin Channel, from Friant Dam to the Stockton Deep Water Channel, and in that area of the North Fork of the Kings River and Mendota Pool from the southerly boundary of the James Reclamation District No. 1606 to Mendota Dam. Because of the unique situation presented by this project, the department shall maintain and operate, on behalf of the state, the work performed by the Corps of Engineers on this project, and the cost of that maintenance and operation shall be borne by the state.

(b) Any assurance agreement entered into between the Secretary of the Army and the Reclamation Board for this project shall provide for mitigation of the impact of the project with the objective of providing a net long-term enhancement of the riparian habitat and fishery in the project area.

(c) It is the intent of the Legislature, in reviewing future projects, to improve the capacity of the San Joaquin River to provide for mitigation of the impact of the project and net long-term enhancement of the riparian habitats and fisheries in the project area.

(d) The Legislature finds and declares that the local responsibility of maintenance of this and future federal projects in and along the San Joaquin River may be better, more efficiently, and more fairly fulfilled by geographically larger, or regional, local public entities. The Legislature, therefore, directs the Reclamation Board, in coordination with the department, to study the possibility of creating, by a joint powers agreement or by special act of the Legislature, one or more regional districts to undertake at a future time local maintenance responsibility for this project. The Reclamation Board shall report its findings to the Legislature not later than December 31, 1985.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for necessary state cooperation so that snagging, channeling, selective clearing, and other urgently needed flood control works can be constructed along the San Joaquin River by the Army Corps of Engineers at the earliest possible time, and to thereby protect the public health and safety, it is necessary that this act take effect immediately.

CHAPTER 1531

An act to amend Section 25192 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 25192 of the Health and Safety Code is amended to read:

25192. (a) All civil penalties collected pursuant to this chapter shall be apportioned in the following manner:

(1) Fifty percent shall be deposited in the Hazardous Waste Control Account in the General Fund.

(2) Twenty-five percent shall be paid to the office of the city attorney, district attorney, or Attorney General, whichever office brought the action.

(3) Twenty-five percent shall be paid to the department and used to fund the activity of the local health officers to enforce the provisions of this chapter pursuant to Section 25180.

(b) If a reward is paid to a person pursuant to Section 25191.7, the amount of the reward shall be deducted from the amount of the civil penalty before the amount is apportioned pursuant to subdivision (a).

CHAPTER 1532

An act to add Sections 66796.53 and 66796.54 to the Government Code, to add Sections 40511, 41805.5, and 42311.5 to the Health and Safety Code, and to add Section 13273 to the Water Code, relating to solid waste.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 66796.53 is added to the Government Code, to read:

66796.53. (a) At least 10 days before issuing an enforcement order which is not for an emergency, within 5 days after issuing an enforcement order for an emergency, and within 15 days after discovering a violation of a state law, regulation, or permit, or a local ordinance, rule, regulation, license, or permit, for a solid waste disposal site which is likely to result in an enforcement action, the following agencies shall provide a written statement providing an explanation of, and justification for, the enforcement order or a description of the violation in the following manner:

(1) The enforcement agency shall provide the statement to the local California regional water quality control board, the local air pollution control district or air quality management district, and the State Department of Health Services.

(2) A California regional water quality control board shall provide the statement to the enforcement agency, the local air pollution control district or air quality management district, and the State Department of Health Services.

(3) An air pollution control district or an air quality management district shall provide the statement to the enforcement agency, the California regional water quality control board, and the State Department of Health Services.

(4) The State Department of Health Services shall provide the statement to the enforcement agency, the local California regional water quality control board, and the local air pollution control district or air quality management district.

(b) Within 10 days after receiving a notice of the issuance of, or the proposal to issue, an enforcement order, pursuant to subdivision (a), the local California regional water quality control board, the enforcement agency, the local air pollution control district or the air quality management district, and the State Department of Health Services shall inspect the solid waste disposal site to determine whether any state law, regulation, or permit, which that board or agency is authorized to enforce, is being violated.

(c) If any board or agency specified in subdivision (a) receives a complaint concerning a solid waste disposal site and the board or agency determines that it is not authorized to take action concerning the complaint, the board or agency shall refer the complaint within 10 days of receipt to another state agency which it determines is authorized to take action.

(d) If any agency or board specified in subdivision (a) receives a complaint concerning a solid waste disposal site which the agency or board does not refer to another state agency pursuant to subdivision (c), or if such an agency or board receives a complaint referred to it by another agency or board pursuant to subdivision (c), the agency or board shall either take enforcement action concerning that facility

or provide the person who filed the complaint with a written statement within 10 days explaining why an enforcement action would not be appropriate.

SEC. 2. Section 66796.54 is added to the Government Code, to read:

66796.54. On or before July 1, 1988, July 1, 1989, and July 1, 1990, the State Water Resources Control Board and the State Air Resources Board shall submit a report to the Legislature summarizing the extent of hazardous waste in solid waste disposal sites and the potential effects these hazardous wastes may have, respectively, upon the quality of waters and upon the ambient air quality of the state, and recommending actions needed to protect the quality of water and air. Each report shall summarize the data from those solid waste assessment test reports which have been submitted on or before January 1 of the preceding year to boards of the air pollution control districts or air quality management districts pursuant to Section 41805.5 of the Health and Safety Code and to California regional water quality control boards pursuant to Section 13273 of the Water Code, and shall evaluate the accuracy of the solid waste assessment tests conducted.

SEC. 3. Section 40511 is added to the Health and Safety Code, to read:

40511. The south coast district board may increase its fee schedule to generate sufficient revenues to pay for any district costs associated with the implementation of Section 66796.53 of the Government Code or Section 41805.5.

SEC. 4. Section 41805.5 is added to the Health and Safety Code, to read:

41805.5. (a) A solid waste disposal site, as defined in Section 66714.1 of the Government Code, shall submit to the local district board, on or before January 1, 1987, a solid waste assessment test report that contains the following information, and any other information which the district board may, by emergency regulation, require:

(1) An analysis and testing for hazardous wastes in the air adjacent to the solid waste disposal site.

(2) A chemical characterization test to determine the composition of the gas streams within the solid waste disposal site and testing for any gas migration outside of the solid waste disposal site's perimeter.

(b) The district board shall examine the report submitted pursuant to subdivision (a) and determine whether the number, location, and design of the gas monitoring wells and migration detection could detect any toxic air contaminants, as defined in Section 39655, and offsite gas migration. If the district board determines that the monitoring program could detect toxic air contaminants and offsite gas migration, the district board shall take the action specified in subdivision (d).

(c) If the district board determines that the monitoring program

was inadequate, it shall require the solid waste disposal site to correct the monitoring program and resubmit the solid waste assessment test based upon the results from the corrected monitoring program.

(d) The district board shall examine the approved solid waste assessment test and determine whether any hazardous wastes were found in the air. If the district board determines that hazardous wastes were found in the air, it shall notify the State Department of Health Services and the California Waste Management Board and shall take appropriate remedial action pursuant to Chapter 4 (commencing with Section 42300).

SEC. 5. Section 42311.5 is added to the Health and Safety Code, to read:

42311.5. A district board may increase its fee schedule adopted under Section 42311 to generate sufficient revenues to pay for any district costs associated with the implementation of Section 66796.53 of the Government Code or Section 41805.5.

SEC. 6. Section 13273 is added to the Water Code, to read:

13273. (a) The state board shall, on or before January 1, 1986, rank all solid waste disposal sites, as defined in Section 66714.1 of the Government Code, based upon the threat which they may pose to water quality. On or before January 1, 1987, the operators of the first 150 solid waste disposal sites ranked on the list shall submit a solid waste water quality assessment test to the appropriate regional board for its examination pursuant to subdivision (d). On or before January 1 of each succeeding year, the operators of the next 150 solid waste disposal sites ranked on the list shall submit a solid waste water quality assessment test to the appropriate regional board for its examination pursuant to subdivision (d).

(b) Before a solid waste water quality assessment test report may be submitted to the regional board, a registered geologist, registered pursuant to Section 7850 of the Business and Professions Code, a certified engineering geologist, certified pursuant to Section 7842 of the Business and Professions Code, or a civil engineer registered pursuant to Section 6762 of the Business and Professions Code, who has at least five years' experience in groundwater hydrology, shall certify that the report contains all of the following information and any other information which the state board may, by regulation, require:

(1) An analysis of the surface and groundwater on, under, and within one mile of the solid waste disposal site to provide a reliable indication whether there is any leakage of hazardous waste.

(2) A chemical characterization of the soil-pore liquid in those areas which are likely to be affected if the solid waste disposal site is leaking, as compared to geologically similar areas near the solid waste disposal site which have not been affected by leakage or waste discharge.

(c) If the regional board determines that the information specified in paragraph (1) or (2) is not needed because other information demonstrates that hazardous wastes are migrating into

the water, the regional board may waive the requirement to submit this information specified in paragraphs (1) and (2) of subdivision (b). The regional board shall also notify the State Department of Health Services, and shall take appropriate remedial action pursuant to Chapter 5 (commencing with Section 13300).

(d) The regional board shall examine the report submitted pursuant to subdivision (b) and determine whether the number, location, and design of the wells and the soiling testing could detect any leachate buildup, leachate migration, or hazardous waste migration. If the regional board determines that the monitoring program could detect the leachate and hazardous waste, the regional board shall take the action specified in subdivision (e). If the regional board determines that the monitoring program was inadequate, the regional board shall require the solid waste disposal site to correct the monitoring program and resubmit the solid waste assessment test based upon the results from the corrected monitoring program.

(e) The regional board shall examine the approved solid waste assessment test report and determine whether any hazardous waste migrated into the water. If the regional board determines that hazardous waste has migrated into the water, it shall notify the State Department of Health Services and the California Waste Management Board and shall take appropriate remedial action pursuant to Chapter 5 (commencing with Section 13300).

(f) When a regional board revises the waste discharge requirements for a solid waste disposal site, the regional board shall consider the information provided in the solid waste assessment test report for that solid waste disposal site.

SEC. 7. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that, for some costs, the local agency or district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, and, for other costs, a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 8. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1533

An act to amend Section 28758.5 of, to add Sections 28741.5, 28744.5, and 28745.5 to, and to add Article 4 (commencing with Section 28794) to Chapter 13 of Division 22 of, the Health and Safety Code, relating to toxic substances.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 28741.5 is added to the Health and Safety Code, to read:

28741.5. The term "art or craft material" means any raw or processed material or manufactured product marketed or being represented by the manufacturer, repackager or retailer as being suitable for use in any phase of the creation of any work of visual or graphic art of any medium. These mediums may include, but shall not be limited to, paintings, drawings, prints, sculpture, ceramics, enamels, jewelry, stained glass, plastic sculpture, photographs, and leather and textile goods. The term shall not include economic poisons subject to the Federal Insecticide, Fungicide, and Rodenticide Act (61 Stats. 163) or Chapter 2 (commencing with Section 12751) of Division 7 of the Food and Agricultural Code; or to drugs, devices, or cosmetics, which are subject to the Federal Food, Drug and Cosmetics Act (52 Stats. 1040) or Division 21 (commencing with Section 26000).

SEC. 2. Section 28744.5 is added to the Health and Safety Code, to read:

28744.5. The term "human carcinogen" means any substance listed as a human carcinogen by the International Agency for Research on Cancer.

The term "potential human carcinogen" means one of the following:

(1) Any substance which does not meet the definition of human carcinogen, but for which there exists sufficient evidence of carcinogenicity in animals, as determined by the International Agency for Research on Cancer.

(2) Any chemical shown to be changed by the human body into a human carcinogen.

SEC. 3. Section 28745.5 is added to the Health and Safety Code, to read:

28745.5. The term "toxic substance causing chronic illness" means any of the following:

(1) Human carcinogens.

(2) Potential human carcinogens.

(3) Any substance included in the list of hazardous substances prepared by the Director of Industrial Relations, pursuant to Section

6382 of the Labor Code, notwithstanding exemptions made for substances on the list which are used in particular forms, circumstances, or concentrations, if the health hazard presented by the substance is not the subject of label statements required by federal law.

SEC. 4. Section 28758.5 of the Health and Safety Code is amended to read:

28758.5. Notwithstanding any other provision of this chapter, no substance or article shall be deemed to violate any provision of this chapter except the provisions of Article 4 (commencing with Section 28794), if the substance or article complies with federal law.

SEC. 5. Article 4 (commencing with Section 28794) is added to Chapter 13 of Division 22 of the Health and Safety Code, to read:

Article 4. Art or Craft Materials

28794. For the purposes of this article, an art or craft material shall be presumed to contain an ingredient which is a toxic substance causing chronic illness if the ingredient, whether an intentional ingredient or an impurity, is 1 percent or more by weight of the mixture or product, or if the department determines that the toxic or carcinogenic properties of the art or craft material are such that labeling is necessary for the adequate protection of the public health and safety.

28795. The Legislature finds and declares that there exists a significant danger to the public health and safety from exposure to art or craft material which contains toxic chemicals. This health risk threatens not only professional artists and craftspersons, but art teachers, students at every educational level, hobbyists, and children. Toxic substances may be employed during the course and scope of creating art or craft objects of all varieties.

The Legislature additionally finds and declares that present labeling of ingredients and hazards of art or craft material is insufficient to adequately protect the consumers of this state from chronic adverse health effects. Because many persons do not know what toxic chemical substances they work with, proper precautionary actions cannot be taken. Disclosure of toxic ingredients, their possible adverse effects on health, and instructions for safe handling, will substantially minimize unnecessary exposure to excessive risk.

Additionally, the Legislature finds and declares that it is consistent to impose upon those who manufacture, repackage, distribute, and sell art or craft material a duty to convey to consumers information about the potential health hazards of the products they manufacture.

Therefore, the Legislature intends by this article to ensure that consumers be provided information concerning the nature of the toxic substances with which they are working and the known and suspected health hazards of these substances, and to ensure the uniformity of labeling standards, so that materials with similar

hazards also have essentially similar labels.

28796. No person shall distribute, sell, offer for sale, or expose for sale any art or craft material containing toxic substances causing chronic illness on which the person:

(a) Has failed to affix a conspicuous label containing the signal word "WARNING," to alert users of potential adverse health effects.

(b) Has failed to affix a conspicuous label warning of the health-related dangers of the art or craft material.

(1) If the product contains a human carcinogen, the warning shall contain the statement: "CANCER HAZARD! Overexposure may create cancer risk."

(2) If the product contains a potential human carcinogen, and does not contain a human carcinogen, the warning shall contain the statement: "POSSIBLE CANCER HAZARD! Overexposure might create cancer risk."

(3) If the product contains a toxic substance causing chronic illness, the warning shall contain, but not be limited to, the following statement or statements where applicable:

(A) May cause sterility or damage to reproductive organs.

(B) May cause birth defects or harm to developing fetus.

(C) May be excreted in human milk causing harm to nursing infant.

(D) May cause central nervous system depression or injury.

(E) May cause numbness or weakness in the extremities.

(F) Overexposure may cause damage to (specify organ).

(G) Heating above (specify degrees) may cause hazardous decomposition products.

(4) If a product contains more than one chronically toxic substance, or if a single substance can cause more than one chronic health effect, the required statements may be combined into one warning statement.

(c) Has failed to affix on the label a list of ingredients which are toxic substances causing chronic illness.

(d) Has failed to affix on the label a statement or statements of safe use and storage instructions, conforming to the following list. The label shall contain, but not be limited to, as many of the following risk statements as are applicable:

(1) Keep out of reach of children.

(2) When using, do not eat, drink, or smoke.

(3) Wash hands after use and before eating, drinking, or smoking.

(4) Keep container tightly closed.

(5) Store in well ventilated area.

(6) Avoid contact with skin.

(7) Wear protective clothing (specify type).

(8) Wear NIOSH certified masks for dusts, mists, or fumes.

(9) Wear NIOSH certified respirator with appropriate cartridge for (specify type).

(10) Wear NIOSH certified supplied-air respirator.

(11) Use window exhaust fan to remove vapors and assure

adequate ventilation (specify explosion proof if necessary).

(12) Use local exhaust hood (specify type).

(13) Do not heat above (specify degrees) without adequate ventilation.

(14) Do not use or mix with (specify material).

(e) Has failed to affix on the label a statement on where to obtain more information, such as "call your local poison control center for more health information."

(f) Has failed to affix on the label the name and address of the manufacturer.

(g) If all of the above information cannot fit on the package label, a package insert shall be required to convey all the necessary information to the consumer. In this event, the label shall contain a statement to refer to the package insert, such as "CAUTION: see package insert before use." For purposes of this section, "package insert" means a display of written, printed, or graphic matter upon a leaflet or suitable material accompanying the art supply. The language on this insert shall be nontechnical and nonpromotional in tone and content.

Art or craft material offered for sale in containers which contain less than one fluid ounce (30 milliliters) or one ounce net (29 grams) shall be deemed to comply with this section if there is affixed on the container a precautionary label that includes the words "USE WITH CAUTION: Contains Hazardous Substances."

The requirements set forth in subdivisions (a) to (g), inclusive, shall not be considered to be complied with unless the required words, statements, or other information appear on the outside container or wrapper, or on a package insert which is easily legible through the outside container or wrapper and is painted in a color in contrast with the product or the package containing the product.

(h) Pursuant to Section 28778, the department may exempt a material from full compliance with this article. In considering this exemption, the department shall take into consideration the potential for reasonably forseeable misuse of a material by a child.

(i) If an art or craft material complies with labeling standards D-4236 of the American Society for Testing and Materials (ASTM), the material complies with the provisions of this article, unless the department determines that the label on an art or craft material does not satisfy the purposes of this article.

28797. (a) The manufacturer of any art or craft material sold, distributed, offered for sale, or exposed for sale in this state shall supply to a national poison control network approved by the director the formulation information required by that network for dissemination to poison control centers. Failure to file formulation information with an approved poison control network is a violation of this chapter.

(b) The requirements set forth in Section 28796 shall not be considered to be complied with unless all required words, statements, or other information accompany art or craft materials

from manufacturer to consumer, not excluding any distributor, packager, repackager, or retailer.

SEC. 6. Sections 1 to 5, inclusive, of this act shall become operative January 1, 1986.

SEC. 7. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1534

An act to amend Sections 66740 and 66746 of the Government Code, relating to solid waste, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 66740 of the Government Code is amended to read:

66740. There is in the Resources Agency the State Solid Waste Management Board, which is continued in existence and shall be known as the California Waste Management Board. Any reference in any law or regulation to the State Solid Waste Management Board is a reference to the California Waste Management Board.

The board shall consist of the following members:

(a) One member appointed by the Governor who is a mayor or a city council member.

(b) One member appointed by the Governor who is a county supervisor.

(c) Three representatives of the public appointed by the Governor.

(d) One representative of the public appointed by the Speaker of the Assembly, who shall have specialized education and experience in natural resources conservation and resources recovery.

(e) One representative of the public appointed by the Senate Committee on Rules, who shall be a registered civil engineer under the laws of this state and have specialized education and experience in natural resources conservation and resources recovery.

(f) One member appointed by the Governor from the private sector of the solid waste management industry from southern California.

(g) One member appointed by the Governor from the private

sector of the solid waste management industry from northern California.

The Governor shall appoint, subject to the advice and consent of a majority of the Members of the Senate, one of the members of the board as chairman. The chairman shall serve half time and shall receive half of the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2.

SEC. 2. Section 66746 of the Government Code is amended to read:

66746. The board shall appoint a chief executive officer exempt from civil service laws who shall administer the functions of the board. The board shall prescribe the duties and fix the salary of the chief executive officer.

SEC. 3. (a) It is the intent of the Legislature that the long-term protection of air, water, and land from pollution due to the disposal of solid waste is best achieved by requiring financial assurances for the closure and post-closure maintenance of solid waste disposal facilities.

(b) It is further the intent of the Legislature that the best interests of the state are served by the establishment of a statewide fund which would assure that proper closure and post-closure maintenance of solid waste disposal facilities is provided and the health, safety, and the environment is protected.

(c) On or before July 1, 1985, the California Waste Management Board shall submit to the Legislature a report which identifies how best to develop, implement, and administer the statewide fund specified in subdivision (b).

SEC. 4. The sum of fifty-five thousand dollars ($55,000) is hereby appropriated from the General Fund to the California Waste Management Board to prepare the report required by subdivision (c) of Section 6 of this act.

CHAPTER 1535

An act to amend Sections 13205 and 13441 of, and to add Section 13443 to, the Water Code, relating to water quality, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 13205 of the Water Code is amended to read:

13205. Each member of a regional board shall receive seventy-five dollars ($75) for each day during which that member is engaged in the performance of official duties, except that no

member shall be entitled to receive the seventy-five dollars ($75) compensation if the member otherwise receives compensation from other sources for performing those duties. The total compensation for each member shall not exceed, in any one fiscal year, the sum of one thousand five hundred dollars ($1,500), and a member may decline compensation. In addition to the compensation, each member shall be reimbursed for necessary traveling and other expenses incurred in the performance of official duties.

SEC. 2. Section 13441 of the Water Code is amended to read:

13441. There is to be paid into the account all moneys from the following sources:

(a) All moneys appropriated by the Legislature for the account.

(b) All moneys contributed to the account by any person and accepted by the state board.

(c) One-half of all moneys collected by way of criminal penalty and all moneys collected civilly under any proceeding brought pursuant to any provison of this division.

(d) All moneys collected by the state board for the account under Section 13304.

The first unencumbered five hundred thousand dollars ($500,000) paid into the account in any given fiscal year is available without regard to fiscal years, for expenditure by the state board in accordance with the provisions of this article. The next unencumbered five hundred thousand dollars ($500,000), or any portion thereof, deposited in any given fiscal year, is available for expenditure by the state board for the purposes of this article, subject to the provisions set forth in Section 28 of the Budget Act of 1984 (Chapter 258 of the Statutes of 1984). The next unencumbered one million dollars ($1,000,000) deposited in the account in any given fiscal year is available for expenditure by the state board for the purposes of Section 13443. The remaining unencumbered funds deposited in the account in any given fiscal year is available without regard to fiscal years to the state board for expenditure for the purposes set forth in Section 13442.

SEC. 3. Section 13443 is added to the Water Code, to read:

13443. Upon application by a regional board that is attempting to remedy a significant unforeseen water pollution problem, posing an actual or potential public health threat, and for which the regional board does not have adequate resources budgeted, the state board may order moneys to be paid from the account to the regional board to assist it in responding to the problem.

SEC. 4. The sum of thirty thousand dollars ($30,000) is hereby appropriated from the General Fund to the Controller for the purpose of increasing compensation of members of regional water quality control boards pursuant to Section 13205 of the Water Code for the period January 1, 1985, to June 30, 1985.

CHAPTER 1536

An act to amend Section 26205 of the Health and Safety Code, relating to health.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 26205 of the Health and Safety Code is amended to read:

26205. (a) All pesticide regulations and any amendments to these regulations adopted pursuant to the federal act or the Food and Agricultural Code, which are in effect on November 23, 1970, or which are adopted on or after this date, are the pesticide regulations in this state. The department may, by regulation, prescribe tolerances for pesticides in processed foods in this state whether or not these tolerances are in accordance with the regulations adopted pursuant to the federal act or the Food and Agricultural Code.

(b) Except as otherwise provided in this subdivision, the department shall evaluate the tolerance prescribed, or an exemption from a tolerance granted, for a pesticide in processed foods and make a determination whether or not the existing tolerance, or the exemption from a tolerance, is protective of the public health whenever any one of the following occurs:

(1) The Director of Food and Agriculture designates the pesticide as a restricted material pursuant to subdivisions (a) and (b) of Section 14004.5 of the Food and Agricultural Code.

(2) The Director of Food and Agriculture refuses to register or cancels the registration of the pesticide pursuant to Section 12825, or suspends the registration of the pesticide pursuant to Section 12826, of the Food and Agricultural Code, upon determining that the pesticide is detrimental to the public health and safety.

(3) The Director of Food and Agriculture adopts regulations restricting worker entry into areas treated with the pesticide pursuant to Section 12981 of the Food and Agricultural Code.

(4) The pesticide is the subject of a proceeding pursuant to a determination by the Environmental Protection Agency under paragraph (3) (i) (A), (3) (ii) (A), (3) (ii) (B), or (3) (iii) of subsection (a) of Section 162.11 of Title 40 of the Code of Federal Regulations.

The requirement to evaluate a tolerance prescribed, or an exemption from a tolerance granted, for a pesticide does not apply if the department finds that any of the actions described in paragraphs (1) to (4), inclusive, occurred for reasons that are not related to the question whether or not the existing tolerance, or the exemption from a tolerance, adequately protects the public health. If the department makes such a finding, the reasons for the finding shall be stated in writing.

(c) The determination required by subdivision (b), and the reasons for the determination, shall be stated in writing. If the determination is required because any of the actions described in paragraphs (1) to (4), inclusive, of subdivision (b) occurs after January 1, 1985, the determination shall be completed within one year of the date of the action. If the determination is required because any of those actions occurred prior to January 1, 1985, the determination shall be completed by January 1, 1990.

(d) In any case where the department, after consultation with the Department of Food and Agriculture, determines, pursuant to subdivision (b), that the tolerance prescribed, or an exemption from a tolerance granted, for a pesticide is not protective of the public health, the department shall, if it does not act immediately pursuant to subdivision (a), transmit notice of its determination to the responsible federal agencies and shall request that they take action, pursuant to the federal act, to modify the tolerance or an exemption from a tolerance. If, after one year from the date the notice is transmitted, the department finds that the responsible federal agencies have failed to take appropriate action to protect the public health, the department shall exercise its authority pursuant to subdivision (a) to prescribe a tolerance that is protective of the public health and shall notify the responsible federal agencies of its action.

CHAPTER 1537

An act to amend Sections 25287, 25288, and 25288.2 of the Health and Safety Code, relating to hazardous substances.

[Approved by Governor September 26, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 25287 of the Health and Safety Code is amended to read:

25287. (a) Any operator of an underground storage tank shall be liable for a civil penalty of not less than five hundred dollars ($500) or more than five thousand dollars ($5,000) per day for any of the following:

(1) Operates an underground storage tank which has not been issued a permit.

(2) Fails to monitor the underground storage tank, as required by the permit.

(3) Fails to maintain records, as required by Section 25283.2.

(4) Fails to report an unauthorized release, as required by Sections 25284.3 and 25284.4.

(5) Fails to properly close an underground storage tank, as

required by Section 25286.

(b) Any owner of an underground storage tank shall be liable for a civil penalty of not less than five hundred dollars ($500) or more than five thousand dollars ($5,000) per day for any of the following:

(1) Failure to obtain a permit as specified by this chapter.

(2) Failure to repair an underground tank in accordance with the provisions of this chapter.

(3) Abandonment or improper closure of any underground tank subject to the provisions of this chapter.

(4) Knowing failure to take reasonable and necessary steps to assure compliance with this chapter by the operator of an underground tank.

(c) Any person who falsifies any monitoring records required by this chapter, or knowingly fails to report an unauthorized release, shall, upon conviction, be punished by a fine of not less than five thousand dollars ($5,000) or more than ten thousand dollars ($10,000), or by imprisonment in the county jail for not to exceed one year, or by both that fine and imprisonment.

(d) In determining both the civil and criminal penalties imposed pursuant to this section, the court shall consider all relevant circumstances, including, but not limited to, the extent of harm or potential harm caused by the violation, the nature of the violation and the period of time over which it occurred, the frequency of past violations, and the corrective action, if any, taken by the person who holds the permit.

(e) Penalties under this section are in addition to, and do not supersede or limit, any and all other legal remedies and penalties, civil or criminal, which may be applicable under other laws.

(f) In addition to the state and any city or county implementing this chapter pursuant to Section 25282, a city or county specified in subdivision (a) of Section 25288 may also levy and collect penalties under this section.

SEC. 2. Section 25288 of the Health and Safety Code is amended to read:

25288. (a) Any city or county which prior to January 1, 1984, adopted an ordinance which, at a minimum meets the requirements set forth in Sections 25284 and 25284.1, including, but not limited to, the provisions providing for double containment and monitoring of underground storage tanks, and under which permits are issued therefor, is exempt from this chapter so long as the ordinance, as it may be amended, continues to meet the requirements of Sections 25284 and 25284.1.

Those cities and counties which are exempted from this chapter pursuant to this subdivision shall submit to the board the application form, and annual information specified by Section 25283.2 and shall submit a written report of any unauthorized release from an underground storage tank to the Office of Emergency Services within 10 working days from the time the local agency is notified of the unauthorized release. Every city and county, except a county of

the fifth class and the cities within that county, shall, until January 1, 1990, collect and transmit to the board the surcharge specified in subdivision (b) of Section 25283.3.

(b) This chapter shall not be construed to limit or abridge the authority of any city or county, to adopt an ordinance requiring information, investigations, or inspections, or implementing and enforcing this chapter.

SEC. 3. Section 25288.2 of the Health and Safety Code is amended to read:

25288.2. (a) The board shall develop regulations implementing the standards of Sections 25284, 25284.1, 25284.3, 25284.4, 25284.5, 25286, and 25288.3. These regulations shall be promulgated by the board by January 1, 1985. The board may adopt regulations implementing Sections 25283.2, 25283.3, and 25283.6 as it deems necessary.

(b) Until the board adopts regulations, any city or county may implement Section 25284 with regard to permits. Any tank or facility so permitted shall be deemed to be in compliance with the regulations of the board implementing that section. Any underground storage tank installed within a city or county which has not implemented Section 25284 prior to the adoption of regulations by the board shall be subject to the same requirements of this chapter as an underground storage tank installed prior to January 1, 1984.

Every city and county shall, without undue delay, undertake its regulatory responsibilities under this chapter after the board adopts its regulations pursuant to subdivision (a). Every city and county shall implement this chapter by no later than July 1, 1985.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 1538

An act to amend Section 25189.5 of, and to add Sections 25190, 25191.5, 25359.5, and 25359.6 to, the Health and Safety Code, relating to hazardous substances.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984]

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

SECTION 1. Section 25189.5 of the Health and Safety Code is amended to read:

25189.5. (a) The disposal of any hazardous waste, or the causing thereof, is prohibited when the disposal is at a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized according to this chapter.

(b) Any person who is convicted of knowingly disposing or causing the disposal of any hazardous waste, or who reasonably should have known that he or she was disposing or causing the disposal of any hazardous waste, at a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized according to this chapter shall, upon conviction, be punished by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16, 24, or 36 months.

(c) Any person who knowingly transports or causes the transportation of hazardous waste, or who reasonably should have known that he or she was causing the transportation of any hazardous waste, to a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized according to this chapter, shall, upon conviction, be punished by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16, 24, or 36 months.

(d) The court may also impose upon a person convicted of violating subdivision (b) or (c) a fine of not less than five thousand dollars ($5,000) or more than fifty thousand dollars ($50,000) for each day of violation.

SEC. 1.3. Section 25190 is added to the Health and Safety Code, to read:

25190. Except as otherwise provided in Sections 25189.5, 25191, 25191.5, and 25195, any person who violates any provision of this chapter, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, is, upon conviction, guilty of a misdemeanor.

If the conviction is for a second or subsequent violation, the person shall, upon conviction, be punished by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16, 20, or 24 months. The court may also impose upon the person a fine of not less than five thousand dollars ($5,000) or more than twenty-five thousand dollars ($25,000).

SEC. 1.5. Section 25191.5 is added to the Health and Safety Code, to read:

25191.5. (a) Any person who knowingly does any of the following acts shall, upon conviction, be punished by a fine of not less than two thousand dollars ($2,000) or more than twenty-five thousand dollars ($25,000) for each day of violation or by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment. If the conviction is for a second or subsequent violation of this section, the person shall be punished by

imprisonment in the state prison for 16, 20, or 24 months or by imprisonment in the county jail for not more than one year, or by a fine of not less than two thousand dollars ($2,000) or more than fifty thousand dollars ($50,000) per day of violation, or by both the fine and imprisonment:

(1) Makes any false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for the purposes of compliance with this chapter.

(2) Has in his or her possession any record relating to the generation, storage, treatment, transportation, disposal, or handling of hazardous waste required to be maintained pursuant to this chapter, that has been altered or concealed, whether altered or concealed prior to January 1, 1982.

(3) Destroys, alters, or conceals any record relating to the generation, storage, treatment, transportation, disposal, or handling of hazardous waste required to be maintained pursuant to this chapter.

(4) Withholds information regarding a real and substantial danger to the public health or safety when the information has been requested by the department in writing and is required to carry out the department's responsibilities pursuant to this chapter in response to a real and substantial danger.

(5) Engages in the transportation of hazardous waste in violation of subdivision (a) or (e) of Section 25163.

(b) The penalties imposed by subdivision (a) on any person who commits any of the acts specified in paragraph (5) of that subdivision shall be imposed only on the owner of the vehicle in which the hazardous wastes are unlawfully transported, carried, or handled or on the person who authorizes the transporting, carrying, or handling, and shall not be imposed on the driver of the vehicle, unless the driver is also the owner of the vehicle or authorized the transporting, carrying, or handling.

(c) Any person who knowingly does any of the following acts shall, upon conviction, be punished by a fine of not more than five hundred dollars ($500) for each day of violation or by imprisonment in the county jail for not more than six months, or by both the fine and imprisonment:

(1) Transports, or authorizes the transportation of, hazardous waste in a truck, trailer, semitrailer, vacuum tank, cargo tank, or container which does not contain a current certificate of compliance, as specified in Section 25168.3.

(2) Carries or handles, or authorizes the carrying or handling of, hazardous waste without having in the driver's possession the list specified in Section 25160.

Whenever any person is prosecuted for a violation pursuant to this subdivision, the court may, on the request of the person, take appropriate steps to make the owner or lessee of the vehicle in which the hazardous wastes are unlawfully transported, carried, or handled,

the driver of the vehicle, or any other person who authorized or directed the loading, maintenance, or operation of the vehicle, a codefendant or codefendants. If the codefendant or codefendants are held solely responsible and found guilty, the court may dismiss the charge against the person who was initially so charged.

(d) Any person who knowingly treats or stores any hazardous waste at a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized in accordance with this chapter, shall, upon conviction, be punished by a fine of not less than two thousand dollars ($2,000) or more than fifty thousand dollars ($50,000) for each day of violation, or by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment. If the conviction is for a second or subsequent violation of this subdivision, the person shall be punished by imprisonment in the state prison for 16, 20, or 24 months or in the county jail for not more than one year, or by a fine of not less than five thousand dollars ($5,000) or more than fifty thousand dollars ($50,000) for each day of violation , or by both the fine and imprisonment.

SEC. 1.7. Section 25359.5 is added to the Health and Safety Code, to read:

25359.5. (a) Within 30 days after making a determination, based upon a preliminary site assessment that there has been a release of a hazardous substance on, under, or into the land on a site, the department or a county health officer shall order the property owner to secure the site if all of the following conditions apply to that site:

(1) The release does not comply with the terms of a current permit or interim status document or regulation of the department.

(2) The site poses a public health risk if human contact is made with the hazardous waste or the surrounding contaminated area.

(3) There is a likelihood of human or domestic animal contact.

(b) The order to secure the site shall require, within 60 days after receiving notification of the order, the posting of the site with signs. The order shall also require that the site be enclosed with a fence, unless it is physically and economically infeasible or unless the fencing is unnecessary because it will not alleviate the danger to the public health.

(c) If fencing is ordered, the fences shall be maintained at the site to prevent unauthorized persons from gaining access to the site. The signs shall be maintained and shall meet all of the following requirements:

(1) The signs shall be bilingual, appropriate to the local area.

(2) The signs shall have lettering which is legible from a distance of at least 25 feet.

(3) The signs shall read: "Caution: Hazardous Substance Area, Unauthorized Persons Keep Out" and shall have the name and phone number of the department or the county health officer that ordered the posting.

(4) The signs shall be visible from the surrounding contaminated

area and posted at each route of entry into the site, including those routes which are likely to be used by unauthorized persons, at access roads leading to the site, and facing navigable waterways where appropriate.

(5) The signs shall be of a material able to withstand the elements.

(d) A property owner who fails to comply with an order of the department or the county health officer is subject to a civil penalty of up to twenty-five thousand dollars ($25,000). In determining the amount of a civil penalty to be imposed, the court shall consider all relevant circumstances, including, but not limited to, the economic assets of the property owner and whether the property owner has acted in good faith.

If the property owner fails to secure and post the site, the department or the county health officer shall secure and post the site pursuant to subdivision (b) within 30 days of the expiration of the 60-day period and shall seek recovery of the costs of that securing and posting from the property owner. If the site is an abandoned site, as defined in Section 25359.6, and if the site cannot be traced to a specific owner or if the owner has been declared bankrupt, the department or the county health officer shall secure and post the site pursuant to subdivision (b).

(e) The department shall, on or before January 30, 1985, review and issue orders to fence and post, as required by this section, any site where the department already has performed a preliminary site assessment.

(f) The department or the county health officer shall advise other agencies on the public health risks and the need for fencing and posting of sites when those agencies confirm the release of a hazardous substance pursuant to subdivision (a).

(g) The remedies and penalties specified in this section and Section 25359.6 are in addition to, and do not affect, any other remedies, enforcement actions, requirements, or penalties otherwise authorized by law.

SEC. 2. Section 25359.6 is added to the Health and Safety Code, to read:

25359.6. (a) The director shall notify, within 20 working days, each of the appropriate county health officers as to all the potential abandoned sites of which the department has knowledge or which the department is investigating for releases of hazardous substances that may have occurred or might be occurring at abandoned sites. The county health officers may request quarterly updates on the status of the investigations of these sites.

As used in this section, "abandoned site" means an inactive disposal, treatment, or storage facility which cannot, with reasonable effort, be traced to a specific owner, a site whose owner has been determined bankrupt, or a location where a hazardous substance has been illegally disposed.

(b) Within 10 working days of the identification of an abandoned site, the department or a county health officer shall notify the other

agency of the status of the site. The department and the county health officer shall inform the other agency of orders to fence and post these sites and the status of compliance with those orders. The department or the county health officers may request quarterly updates of the testing, enforcement action, and remedial or removal actions that are proposed or ongoing.

SEC. 2.5. No appropriation is made and no reimbursement is required by the provisions of this act relating to criminal or civil penalties pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because those provisions create a new crime or infraction, change the definition of a crime or infraction, change the penalty for a crime or infraction, or eliminate a crime or infraction.

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

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1539

An act to amend Section 429.11 of the Health and Safety Code, relating to toxic chemicals.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 429.11 of the Health and Safety Code is amended to read:

429.11. The State Department of Health Services shall maintain a program on occupational health and occupational disease prevention including, but not limited to, the following:

(a) Investigations into the causes of morbidity and mortality from work-induced diseases.

(b) Development of recommendations for improved control of work-induced diseases.

(c) Maintenance of a thorough knowledge of the effects of

industrial chemicals and work practices on the health of California workers.

(d) Provision of technical assistance in matters of occupational disease prevention and control to the Department of Industrial Relations and other governmental and nongovernmental agencies, organizations, and private individuals.

(e) Collection and summarization of statistics describing the causes and prevalence of work-induced diseases in California.

The functions provided for above are intended to implement within the department a continuing research and development capability and a repository of hazardous substances capability which will reinforce and strengthen the administration of the California Occupational Safety and Health Act of 1973, Part 1 (commencing with Section 6300) of Division 5 of the Labor Code, including the capability to recommend occupational health standards to the California Occupational Safety and Health Standards Board. Whenever the repository identifies data gaps for any chemical regulated by the California Occupational Safety and Health Act of 1973, the State Department of Health Services shall notify the Division of Occupational Safety and Health of the Department of Industrial Relations of its finding.

The repository maintained pursuant to this section and Section 147.2 of the Labor Code shall contain the report issued pursuant to Section 24303.5. Whenever a request for toxicity information is received concerning a chemical discussed in that report, the state department shall notify the requester of the nature and extent of any data gaps identified in the report with respect to that chemical. Whenever the repository receives a request about toxicity information on any other chemical, in addition to providing available information about the known toxic effects of exposure to the chemical, the repository shall also notify the requester of a determination by any state agency or federal agency that the chronic health effects testing data on the chemical is inadequate or incomplete. State agencies which maintain information on the toxic effects of chemicals shall provide the repository with access to that information.

SEC. 2. Section 429.11 of the Health and Safety Code is amended to read:

429.11. The State Department of Health Services shall maintain a program on occupational health and occupational disease prevention including, but not limited to, the following:

(a) Investigations into the causes of morbidity and mortality from work-induced diseases.

(b) Development of recommendations for improved control of work-induced diseases.

(c) Maintenance of a thorough knowledge of the effects of industrial chemicals and work practices on the health of California workers.

(d) Provision of technical assistance in matters of occupational

disease prevention and control to the Department of Industrial Relations and other governmental and nongovernmental agencies, organizations, and private individuals.

(e) Collection and summarization of statistics describing the causes and prevalence of work-induced diseases in California.

The functions provided for above are intended to implement within the department a continuing research and development capability and a repository of hazardous substances capability which will reinforce and strengthen the administration of the California Occupational Safety and Health Act of 1973, Part 1 (commencing with Section 6300) of Division 5 of the Labor Code, including the capability to recommend occupational health standards to the California Occupational Safety and Health Standards Board. Whenever the repository identifies data gaps for any chemical regulated by the California Occupational Safety and Health Act of 1973, the State Department of Health Services shall notify the Division of Occupational Safety and Health of the Department of Industrial Relations of its finding.

The repository maintained pursuant to this section and Section 147.2 of the Labor Code shall contain the report issued pursuant to Sections 13124 and 13125 of the Food and Agricultural Code. Whenever a request for toxicity information is received concerning a chemical discussed in that report, the state department shall notify the requestor of the nature and extent of any data gaps identified in the report with respect to that chemical. Whenever the repository receives a request about toxicity information on any other chemical, in addition to providing available information about the known toxic effects of exposure to the chemical, the repository shall also notify the requester of a determination by any state agency or federal agency that the chronic health effects testing data on the chemical is inadequate or incomplete. State agencies which maintain information on the toxic effects of chemicals shall provide the repository with access to that information.

SEC 3. Section 2 of this act shall become operative only if Senate Bill No. 950 of the 1983–84 Regular Session of the Legislature is chaptered and becomes operative and adds Sections 13124 and 13125 to the Food and Agricultural Code relating to reports of pesticide ingredients by the Department of Food and Agriculture, in which case Section 1 of this act shall not become operative.

CHAPTER 1540

An act to add Section 33420.5 to the Health and Safety Code, relating to redevelopment.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 33420.5 is added to the Health and Safety Code, to read:

33420.5. Within a project area, an agency may take any actions which the agency determines are necessary and which are consistent with other state and federal laws to remedy or remove hazardous waste from property if the agency obtains written approval from the State Department of Health Services prior to taking that action. In addition, if methane or landfill gas is present, the agency shall also obtain written approval from the California Waste Management Board prior to taking that action.

The terms "remove," "remedy," and "hazardous waste," as used in this section, have the same meaning given those terms by Sections 25323, 25322, and 25117, respectively.

CHAPTER 1541

An act to amend Sections 13261, 13265, 13268, 13350, 13385, and 13387 of, to add Sections 13351 and 13523.5 to, and to add Article 2.5 (commencing with Section 13323) to Chapter 5 of Division 7 of, the Water Code, relating to water quality.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 13261 of the Water Code is amended to read:

13261. (a) Any person failing to furnish a report under Section 13260 when so requested by a regional board is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).

(b) (1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars ($1,000) for each day in which the violation occurs.

(2) Civil liability may be imposed by the superior court in accordance with Articles 5 (commencing with Section 13350) and 6 (commencing with Section 13360) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed five thousand dollars ($5,000) for each day in which the violation occurs.

(c) Any person discharging or proposing to discharge hazardous waste, as defined in Section 25117 of the Health and Safety Code, who

knowingly furnishes a false report under Section 13260, or who either willfully fails to furnish a report or willfully withholds material information under Section 13260 despite actual knowledge of such requirement, may be liable in accordance with subdivision (d) and is guilty of a misdemeanor.

This subdivision shall not be applicable to any waste discharge which is subject to Chapter 5.5 (commencing with Section 13370).

(d) (1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (c) in an amount which shall not exceed five thousand dollars ($5,000) for each day in which the violation occurs.

(2) Civil liability may be imposed by the superior court in accordance with Articles 5 (commencing with Section 13350) and 6 (commencing with Section 13360) of Chapter 5 for a violation of subdivision (c) in an amount which shall not exceed twenty-five thousand dollars ($25,000).

SEC. 2. Section 13265 of the Water Code is amended to read:

13265. (a) Any person discharging waste in violation of Section 13264, after such violation has been called to his attention in writing by the regional board, is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b). Each day of such discharge shall constitute a separate offense.

(b) (1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars ($1,000) for each day in which the violation occurs.

(2) Civil liability may be imposed by the superior court in accordance with Articles 5 (commencing with Section 13350) and 6 (commencing with Section 13360) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed five thousand dollars ($5,000) for each day in which the violation occurs.

(c) Any person discharging hazardous waste, as defined in Section 25117 of the Health and Safety Code, in violation of Section 13264 is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (d). That liability shall not be imposed if the discharger is not negligent and immediately files a report of the discharge with the board, or if the regional board determines that the violation of Section 13264 was insubstantial.

This subdivision shall not be applicable to any waste discharge which is subject to Chapter 5.5 (commencing with Section 13370).

(d) (1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (c) in an amount which shall not exceed five thousand dollars ($5,000) for each day in which the violation occurs.

(2) Civil liability may be imposed by the superior court in accordance with Articles 5 (commencing with Section 13350) and 6

(commencing with Section 13360) of Chapter 5 for a violation of subdivision (c) in an amount which shall not exceed twenty-five thousand dollars ($25,000) for each day in which the violation occurs.

SEC. 3. Section 13268 of the Water Code is amended to read:

13268. (a) Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267, or falsifying any information provided therein, is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).

(b) (1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars ($1,000) for each day in which the violation occurs.

(2) Civil liability may be imposed by the superior court in accordance with Articles 5 (commencing with Section 13350) and 6 (commencing with Section 13360) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed five thousand dollars ($5,000) for each day in which the violation occurs.

(c) Any person discharging hazardous waste, as defined in Section 25117 of the Health and Safety Code, knowingly failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267, or knowingly falsifying any information provided therein, is guilty of a misdemeanor and may be civilly liable in accordance with subdivision (d).

This subdivision shall not be applicable to any waste discharge which is subject to Chapter 5.5 (commencing with Section 13370).

(d) (1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (c) in an amount which shall not exceed five thousand dollars ($5,000) for each day in which the violation occurs.

(2) Civil liability may be imposed by the superior court in accordance with Articles 5 (commencing with Section 13350) and 6 (commencing with Section 13360) of Chapter 5 for a violation of subdivision (c) in an amount which shall not exceed twenty-five thousand dollars ($25,000) for each day in which the violation occurs.

SEC. 4. Article 2.5 (commencing with Section 13323) is added to Chapter 5 of Division 7 of the Water Code, to read:

Article 2.5. Administrative Civil Liability

13323. (a) Any executive officer of a regional board may issue a complaint to any person on whom administrative civil liability may be imposed pursuant to this article. The complaint shall allege the act or failure to act that constitutes a violation of law, the provision of law authorizing civil liability to be imposed pursuant to this article, and the proposed civil liability.

(b) The complaint shall be served by personal notice or certified

mail, and shall inform the party so served that a hearing shall be conducted within 60 days after the party has been served. The hearing shall be before a panel of the regional board, consisting of three or more members of the regional board as it may specify, or before the regional board. The complainant may waive the right to a hearing, in which case the regional board shall not conduct a hearing.

(c) After any hearing, the panel shall report its proposed decision and order to the regional board and shall at the time it reports its decision to the regional board supply a copy to the party served with the complaint, the party issuing the complaint, and any other person requesting a copy. Members of the panel may sit as members of the board in deciding the matter. The regional board, after making an independent review of the record and taking such additional evidence as may be necessary and could not reasonably have been offered before the hearing panel, may adopt, with or without revision, the proposed decision and order of the panel.

(d) Orders setting administrative civil liability shall become effective and final upon issuance thereof, and payment shall be made within 30 days. Copies of these orders shall be served by personal service or by registered mail upon the party served with the complaint and upon other persons who appeared at the hearing and requested a copy.

13324. (a) Within 30 days of the issuance of any order under Section 13323, any aggrieved party may petition the state board for review of the order, or the state board may grant review on its own motion. If no person petitions for review within the time limits set by this section, the order shall not be subject to review by any court or agency, except that the state board may grant review on its own motion after the expiration of the time limits set forth in this subdivision.

(b) If the state board grants review of the order of the regional board, the record before the state board shall consist of the record before the regional board, and any other relevant evidence which, in the judgment of the state board, should be considered to effectuate and implement the policies of this division.

(c) The state board may affirm, modify, or set aside, in whole or in part, any order of the regional board reviewed pursuant to this section.

(d) Any order of the state board issued under this section shall become effective and final upon issuance thereof, and payment shall be made within 30 days. Copies of any order shall be served by personal service or by registered mail upon the party served with the complaint, the party issuing the complaint, and any other person who appeared at the hearing and requested a copy.

13325. Any party aggrieved by a final order issued by the state board under Section 13324 after granting review of a regional board order may obtain review of the order of the state board in the superior court by filing in the court a petition for writ of mandate

within 30 days following the issuance of the order by the state board. Any party aggrieved by a final order of a regional board issued under Section 13323 for which the state board denies review may obtain review of the order of the regional board in the superior court by filing in the court a petition of writ of mandate within 30 days following the denial of review by the state board. If no aggrieved party petitions for writ of mandate within the time provided by this section, an order of the state board or a regional board shall not be subject to review by any court or agency, except that the state board may grant review on its own motion of an order issued under Section 13323 after the expiration of the time limits set by the section.

13326. No person shall be subject to both civil liability imposed under this article and civil liability imposed by the superior court under Articles 5 (commencing with Section 13350) and 6 (commencing with Section 13360) for the same act or failure to act.

13327. In determining the amount of civil liability, the regional board, and the state board upon review of any order pursuant to Section 13324, shall take into consideration the nature, circumstance, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, and, with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation, and such other matters as justice may require.

SEC. 5. Section 13350 of the Water Code is amended to read:

13350. (a) Any person who (1) intentionally or negligently violates any cease and desist order or cleanup and abatement order hereafter issued, reissued, or amended by a regional board or the state board, or (2) in violation of any waste discharge requirement or other order or prohibition issued, reissued, or amended by a regional board or the state board, intentionally or negligently discharges waste, or causes or permits waste to be deposited where it is discharged, into the waters of the state and creates a condition of pollution or nuisance, or (3) causes or permits any oil or any residuary product of petroleum to be deposited in or on any of the waters of the state, except in accordance with waste discharge requirements or other provisions of this division, may be liable civilly in accordance with subdivision (d), (e), or (f).

(b) Any person who, without regard to intent or negligence, causes or permits any hazardous substance to be discharged in or on any of the waters of the state where it creates a condition of pollution or nuisance, except in accordance with waste discharge requirements or other provisions of this division, shall be strictly liable civilly in accordance with subdivision (d), (e), or (f).

For purposes of this subdivision, the term "discharge" includes only those discharges for which Section 13260 directs that a report of waste discharge shall be filed with the regional board.

For purposes of this subdivision, the term "discharge" does not

include any emission excluded from the applicability of Section 311 of the Clean Water Act (33 U.S.C. Section 1251 et seq.) pursuant to Environmental Protection Agency regulations interpreting Section 311(a)(2) of the Clean Water Act.

(c) There shall be no liability under subdivision (b) if the discharge is caused solely by any one or combination of the following:

(1) An act of war.

(2) An unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.

(3) Negligence on the part of the state, the United States, or any department or agency thereof; provided, that this paragraph shall not be interpreted to provide the state, the United States, or any department or agency thereof a defense to liability for any discharge caused by its own negligence.

(4) An intentional act of a third party, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.

(5) Any other circumstance or event which causes the discharge despite the exercise of every reasonable precaution to prevent or mitigate the discharge.

(d) When there is a discharge, and a cleanup and abatement order is issued pursuant to Section 13304, liability shall be imposed as follows:

(1) Civil liability may be administratively imposed by a regional board pursuant to Article 2.5 (commencing with Section 13323) for a violation of this section in an amount which shall not exceed five thousand dollars ($5,000) for each day in which the discharge occurs and for each day the cleanup and abatement order is violated.

(2) Civil liability may be imposed by the superior court in accordance with this article and Article 6 (commencing with Section 13360) for a violation of this section in an amount which shall not exceed fifteen thousand dollars ($15,000) for each day in which the discharge occurs and for each day the cleanup and abatement order is violated.

(e) When there is a discharge, and a cleanup and abatement order is not issued pursuant to Section 13304, liability shall be imposed as follows:

(1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) for a violation of this section in an amount which shall not exceed ten dollars ($10) for each gallon of waste discharged.

(2) Civil liability may be imposed by the superior court in accordance with this article and Article 6 (commencing with Section 13360) for a violation of this section in an amount which shall not exceed twenty dollars ($20) for each gallon of waste discharged.

(f) When there is no discharge, but an order issued by the regional board is violated, liability shall be imposed as follows:

(1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) for a violation of this section in an amount which shall not exceed one thousand dollars ($1,000) for each day in which the violation occurs.

(2) Civil liability may be imposed by the superior court in accordance with this article and Article 6 (commencing with Section 13360) for a violation of this section in an amount which shall not exceed ten thousand dollars ($10,000) for each day in which the violation occurs.

(g) The Attorney General, upon request of a regional board or the state board, shall petition the superior court to impose, assess, and recover such sums. Except in the case of a violation of a cease and desist order, a regional board or the state board shall make such request only after a hearing, with due notice of the hearing given to all affected persons. In determining such amount, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and corrective action, if any, taken by the discharger.

(h) The provisions of Article 3 (commencing with Section 13330) and Article 6 (commencing with Section 13360) of this chapter shall apply to proceedings to impose, assess, and recover an amount pursuant to this article.

(i) Any person who pays any liability established under this section shall be entitled to contribution for such liability from any third party, in an action in the superior court and upon proof that the discharge was caused in whole or in part by an act or omission of the third party, to the extent that the discharge is caused by the act or omission of the third party, in accordance with the principles of comparative fault.

(j) Remedies under this section are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal; provided that no liability shall be recoverable under subdivision (b) for any discharge for which liability is recovered under Section 13385.

SEC. 6. Section 13351 is added to the Water Code, to read:

13351. In determining the amount of civil liability to be imposed pursuant to this chapter, the superior court shall take into consideration the nature, circumstance, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, and, with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation, and such other matters as justice may require.

SEC. 7. Section 13385 of the Water Code is amended to read:

13385. (a) Any person who discharges pollutants or dredged or fill material, except as permitted by waste discharge requirements or

a dredged or fill material permit, or who violates any cease and desist order or cleanup and abatement order, prohibition, waste discharge requirement, dredged or fill material permit, effluent limitation, water quality related effluent limitation, national standard of performance, pretreatment or toxicity standard or who refuses to comply with the requirements adopted pursuant to Section 13382 shall be subject to a civil penalty which shall be determined as follows:

(1) When there is a discharge, and a cleanup and abatement order is issued pursuant to Section 13304, the amount of liability shall be a sum not more than fifteen thousand dollars ($15,000) for each day in which the discharge occurs and for each day the cleanup and abatement order is violated.

(2) When there is a discharge, and a cleanup and abatement order is not issued, the amount of liability shall be a sum equal to not more than twenty dollars ($20) for each gallon of waste discharged.

(3) When there is no discharge, but an order of the regional board is violated, the amount of liability shall be a sum not more than ten thousand dollars ($10,000) for each day in which the violation occurs.

(b) Funds collected shall be paid to the State Water Pollution Cleanup and Abatement Account.

SEC. 8. Section 13387 of the Water Code is amended to read:

13387. (a) Any person who willfully or negligently discharges pollutants or dredged or fill material, except as allowed by waste discharge requirements or dredged or fill material permits, or who willfully or negligently violates any effluent standard, water quality related effluent standard, national standard of performance, toxicity or pretreatment standard, or who refuses to comply with the requirements adopted pursuant to Section 13382, or who violates any cease and desist order, prohibition, or waste discharge requirement shall be punished by a fine of not more than twenty-five thousand dollars ($25,000) nor less than five thousand dollars ($5,000) for each day in which such violation occurs, or by imprisonment for not more than one year in the county jail, or by both. If the conviction is for a violation committed after a first conviction of such person under this section, punishment shall be by a fine of not more than fifty thousand dollars ($50,000) for each day in which such violation occurs, or by imprisonment for not more than two years in the county jail, or both. Funds collected shall be paid to the State Water Pollution Cleanup and Abatement Account.

(b) Any person who knowingly makes any false statement, representation, record, report, plan or other document filed with a regional board or the state board, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this division shall be punished by a fine of not more than twenty-five thousand dollars ($25,000), or by imprisonment in a county jail for not more than six months, or by both.

SEC. 9. Section 13523.5 is added to the Water Code, to read:

13523.5. A regional board may not deny issuance of water

reclamation requirements to a project which violates only a salinity standard in the basin plan.

SEC. 10. Civil penalties shall not be imposed upon any water reclamation project violating only a salinity standard.

CHAPTER 1542

An act to add Section 13370.5 to the Water Code, relating to water quality, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 13370.5 is added to the Water Code, to read:

13370.5. (a) The Legislature finds and declares that, since the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.), as amended, and applicable federal regulations (40 C.F.R. 403 et seq.) provide for a pretreatment program to regulate the discharge of pollutants into publicly owned treatment works and provide that states with approved national pollutant discharge elimination system (NPDES) permit programs shall apply for approval of a state pretreatment program, it is in the interest of the people of the state to enact this section in order to avoid direct regulation by the federal government of publicly owned treatment works already subject to regulation under state law pursuant to this division.

(b) The state board shall develop a state pretreatment program and shall, not later than September 1, 1985, apply to the Environmental Protection Agency for approval of the pretreatment program in accordance with federal requirements.

SEC. 2. The sum of two hundred seventy thousand dollars ($270,000) is hereby appropriated from the General Fund to the State Water Resources Control Board for the purposes of the pretreatment program set forth in Section 1 of this act.

CHAPTER 1543

An act to add Section 25122.7 to, and to add Article 9.5 (commencing with Section 25208) to Chapter 6.5 of Division 20 of, the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 25122.7 is added to the Health and Safety Code, to read:

25122.7. "Restricted hazardous waste" means either of the following:

(a) Any hazardous waste which contains any of the following substances, in the following concentrations, as determined without considering any dilution which may occur, unless the dilution is a normal part of a manufacturing process:

(1) Liquid hazardous wastes containing free cyanides at concentrations greater than, or equal to, 1,000 milligrams per liter.

(2) Liquid hazardous wastes containing any of the following metals or elements, or compounds of these metals or elements, at concentrations greater than, or equal to, any of the following:

Arsenic	500 milligrams per liter
Cadmium	100 milligrams per liter
Chromium (VI)	500 milligrams per liter
Lead	500 milligrams per liter
Mercury	20 milligrams per liter
Nickel	134 milligrams per liter
Selenium	100 milligrams per liter
Thallium	130 milligrams per liter

(3) Liquid hazardous wastes having a pH less than or equal to two.

(4) Liquid hazardous wastes containing polychlorinated biphenyls at concentrations greater than, or equal to, 50 milligrams per liter.

(5) Hazardous wastes containing halogenated organic compounds in total concentration greater than, or equal to, 1,000 milligrams per kilogram.

(b) Any hazardous waste designated by the department as a restricted hazardous waste because of its toxicity, mobility, or persistence in a land disposal environment, or its ability to accumulate in plants or animals.

SEC. 2. Article 9.5 (commencing with Section 25208) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 9.5. Surface Impoundments

25208. This article shall be known and may be cited as the Toxic Pits Cleanup Act of 1984.

25208.1. The Legislature finds and declares as follows:

(a) Discharges of liquid hazardous wastes or hazardous wastes containing free liquids into lined or unlined ponds, pits, and lagoons pose a serious threat to the quality of the waters of the state.

(b) Recent reports indicate that hazardous waste contamination from surface impoundments is migrating to domestic drinking water

supplies and threatening the continued beneficial uses of the state's ground and surface waters, air, and environment.

(c) Under the federal Resource Conservation and Recovery Act of 1976 (42 U.S.C. Sec. 6901 et seq.), and under state regulations, the storage of hazardous wastes in existing ponds has not been required to meet the same requirements as new impoundments, such as double liners, leachate collection, and leak detection.

(d) Recent studies have found that synthetic liners, clay liners, and combinations, including clay and synthetic liners, impede, but do not eliminate, leachate from surface impoundments migrating into the surrounding environment.

(e) It is in the public interest to establish a continuing program for the purpose of preventing contamination from, and improper storage, treatment, and disposal of, liquid hazardous wastes or hazardous wastes containing free liquids in surface impoundments. It is the intent of the Legislature, in enacting this article, to establish a program that will ensure that existing surface impoundments are either made safe or are closed, so that they do not contaminate the air or waters of the state, and so that the health, property, and resources of the people of the state are protected.

25208.2. For purposes of this article, the following definitions apply:

(a) "Active life of the facility" means that period of time when the facility has the potential to adversely affect the waters of the state, but if the owner enters into an agreement with the board to properly close the impoundment on a specified date, the active life of the facility means that period of time up to that specified date.

(b) "Background water quality" means the level of concentration of indicator parameters in groundwater that is not, or has not been, affected by any hazardous waste, hazardous waste constitutent, or hazardous waste leachate emanating from a particular waste management unit.

(c) "Board" or "state board" means the State Water Resources Control Board.

(d) "Close the impoundment" means the permanent termination of all hazardous waste discharge operations at a waste management unit and any operations necessary to prepare that waste management unit for postclosure maintenance which are conducted pursuant to the federal Resource Conservation and Recovery Act of 1976 (42 U.S.C. Sec. 6901 et seq.), and the regulations adopted by the state board and the department concerning the closure of surface impoundments.

(e) "Constituent" means an element, chemical compound, or mixture of compounds which is a component of a hazardous waste or leachate and which has the physical or chemical properties that cause the waste to be identified as hazardous waste by the department.

(f) "Discharge" means to place, dispose of, or store liquid hazardous wastes or hazardous wastes containing free liquids into or in a

surface impoundment owned or operated by the person who is conducting the placing, disposal, or storage.

(g) "Emergency containment dike" means a berm which is located around a tank solely for the purpose of containing any emergency spills from the tank and which does not contain any liquid hazardous waste or hazardous wastes containing free liquids for longer than 48 hours.

(h) "Facility" means the structures, appurtenances, and improvements on the land, and all contiguous land, which are used for treating, storing, or disposing of hazardous waste. A facility may consist of several waste management units.

(i) "Free liquids" means liquids which readily separate from the solid portion of a hazardous waste under ambient temperature and pressure.

(j) "Groundwater" means water below the land surface in a zone of saturation.

(k) "Hazardous waste" means a waste that is a hazardous waste, as specified in this chapter.

(*l*) "Indicator parameters" means the measureable physical or chemical characteristics in groundwater or soil-pore moisture which are likely to be affected by hazardous waste disposal operations and which are used, for comparison purposes, to assess the result of hazardous waste disposal operations at a particular waste management unit on the waters of the state.

(m) "Landfill" means a facility or part of a facility where hazardous waste is placed in or on land for disposal and which is not a land farm, surface impoundment, or an injection well.

(n) "Leachate" means any fluid, including any constituents in the liquid, that has percolated through, migrated from, or drained from, a hazardous waste management unit.

(o) "Owner" means a person who owns a facility or part of a facility.

(p) "Perched water" means a localized body of groundwater that overlies, and is hydraulically separated from, an underlying body of groundwater.

(q) "pH" means a measure of a sample's acidity expressed as a negative logarithm of the hydrogen ion concentration.

(r) "Pile" means any noncontainerized accumulation of solid, nonflowing hazardous waste which is used for the purpose of treatment or storage.

(s) "Potential source of drinking water" means either water which is identified or designated in a water quality control plan adopted by a regional board as being suitable for domestic or municipal uses and which is potable, or water which is located in water-bearing strata which is an underground source of drinking water, as defined in Section 146.3 of Title 40 of the Code of Federal Regulations, and which is not an exempted acquifer, as defined in Section 146.4 of Title 40 of the Code of Federal Regulations.

(t) "Qualified person" means a person who has at least five years

of full-time experience in hydrogeology and who is a certified engineering geologist certified pursuant to Section 7842 of the Business and Professions Code, a registered geologist registered pursuant to Section 7850 of the Business and Professions Code, or a registered civil engineer registered pursuant to Section 6762 of the Business and Professions Code. "Full-time experience" in hydrogeology may include a combination of postgraduate studies in hydrogeology and work experience, with each year of postgraduate work counted as one year of full-time work experience, except that not more than three years of postgraduate studies may be counted as full-time experience.

(u) "Regional board" means the California regional water quality control board for the region in which the surface impoundment is located.

(v) "Report" means the hydrogeological assessment report specified in Section 25208.8.

(w) "Surface impoundment" or "impoundment" means a waste management unit or part of a waste management unit which is a natural topographic depression, artificial excavation, or diked area formed primarily of earthen materials, although it may be lined with artificial materials, which is designed to hold an accumulation of liquid hazardous wastes or hazardous wastes containing free liquids, including, but not limited to, holding, storage, settling, or aeration pits, evaporation ponds, percolation ponds, other ponds, and lagoons. Surface impoundment does not include a landfill, a land farm, a pile, emergency containment dike, tank, or an injection well.

(x) "Tank" means a stationary device, designed to contain an accumulation of hazardous waste, which is constructed primarily of nonearthen materials such as fiberglass, steel, or plastic to provide structural support, and which has been issued a permit pursuant to Section 25283.

(y) "Vadose zone" means the zone between the land surface and the water table.

(z) "Waste management unit" means that portion of a facility used for the discharge of hazardous waste into or onto land, including all containment and monitoring equipment associated with that portion of the facility.

25208.3. (a) On or before July 1, 1985, the state board shall, by emergency regulation, adopt a fee schedule which assesses a fee upon any person discharging any liquid hazardous wastes or hazardous wastes containing free liquids into a surface impoundment. The state board shall include in this fee schedule the fees charged for applications for, and renewals of, an exemption from Section 25208.5, as specified in subdivision (h) of Section 25208.5, from subdivision (a) of Section 25208.4, as specified in subdivision (b) of Section 25208.4, and from Sections 25208.4 and 25208.5, as specified in subdivision (e) of Section 25208.13. The state board shall also include provisions in the fee schedule for assessing a penalty pursuant to subdivision (c). The state board shall set these fees at an amount equal to the state

board's and regional board's reasonable and anticipated costs of administering this article.

(b) The emergency regulations which set the fee schedule shall be adopted by the state board in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the state board pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect until revised by the state board.

(c) The state board shall send a notice to each person subject to the fee specified in subdivision (a). If a person fails to pay the fee within 60 days after receipt of this notice, the state board shall require the person to pay an additional penalty fee. The state board shall set the penalty fee at not more than 100 percent of the assessed fee, but in an amount sufficient to deter future noncompliance, as based upon that person's past history of compliance and ability to pay, and upon additional expenses incurred by this noncompliance.

(d) The state board shall collect and deposit the fees collected pursuant to this section in the Surface Impoundment Assessment Account, which is hereby created in the General Fund. The money within the Surface Impoundment Assessment Account is available, upon appropriation by the Legislature, to the state board and the regional boards for purposes of administering this article.

25208.4. (a) Notwithstanding any other provision of law, unless granted an exemption pursuant to subdivision (b) or Section 25208.13, a person shall not discharge liquid hazardous wastes or hazardous wastes containing free liquids into a surface impoundment after June 30, 1988, if the surface impoundment, or the land immediately beneath it, contains hazardous wastes and is within one-half mile upgradient from a potential source of drinking water.

A person who owns a surface impoundment which meets the conditions specified in this subdivision shall close the impoundment.

(b) A person may apply to a regional board to exempt a surface impoundment from subdivision (a) pursuant to this subdivision. A person shall submit the application for exemption to the regional board on or before January 1, 1986.

(1) A regional board shall either grant or deny an exemption from subdivision (a) on or before December 31, 1987. A regional board may grant an exemption from subdivision (a) only if the regional board makes both of the following findings:

(A) No extremely hazardous wastes are currently being discharged into the surface impoundment, and either one of the following applies:

(i) The records of the person applying for an exemption indicate that no extremely hazardous wastes have been discharged into the surface impoundment.

(ii) Extremely hazardous wastes are not present in the surface impoundment, in the vados zone, or in the waters of the state.

(B) The surface impoundment is in compliance with Section 25208.5, and a report has been filed pursuant to Section 25208.8.

(2) An exemption granted pursuant to this subdivision shall not be effective for more than five years. Applications for an exemption or a renewal of an exemption shall be accompanied by the fee specified in the fee schedule adopted by the state board pursuant to Section 25208.3. A regional board shall not renew the exemption unless the regional board makes both of the following findings:

(A) No hazardous waste constituents have migrated from the surface impoundment into the vadose zone or the waters of the state in concentrations which pollute the vadose zone, or pollute, or threaten to pollute, the waters of the state.

(B) Continuing the operation of the surface impoundment does not pose a significant potential of hazardous waste constituents migrating from the surface impoundments in the vadose zone or the waters of the state, thus polluting the vadose zone, or polluting, or threatening to pollute, these waters.

(3) Except as provided in paragraph (4), the regional board shall revoke an exemption granted pursuant to this subdivision and require the person granted the exemption to comply with subdivision (a) if the regional board determines that the surface impoundment granted the exemption is polluting, or threating to pollute, the waters of the state or that hazardous waste constituents are migrating from the surface impoundment into the vadose zone or the waters of the state in concentrations which pollute or threaten to pollute these waters. The regional board shall also issue a cease and desist order pursuant to Section 13301 of the Water Code and require appropriate removal and remedial actions by the person granted the exemption, or the responsible parties to clean up any pollution which may have occurred.

(4) Notwithstanding paragraph (3), a regional board may continue in effect an exemption granted pursuant to this subdivision if the regional board orders the person to double line the surface impoundment, equip the surface impoundment with a leachate collection system, and conduct groundwater monitoring, as specified in subdivision (a) of Section 25208.5, within one year after granting this continuance, and if the regional board makes all of the following findings:

(A) The surface impoundment granted the exemption has hazardous waste constituents, in concentrations which threaten to pollute the waters of the state, which are migrating from the surface impoundment into the vadose zone, but no hazardous waste constituents have migrated into the waters of the state.

(B) Installing double liners and a leachate collection system and

conducting groundwater monitoring, as specified in subdivision (a) of Section 25208.5, will abate the threat to the waters of the state before any hazardous waste constituents migrate to the waters.

(C) All removal and remedial actions necessary to abate the threat specified in subparagraph (A) can be completed prior to the migration of any hazardous waste constituents into the waters of the state.

(5) Notwithstanding paragraph (4), the regional board shall revoke the exemption continued pursuant to paragraph (4) and shall require the person granted this continuance to comply with subdivision (a) if the regional board determines either of the following:

(A) The surface impoundment is polluting the waters of the state or that hazardous waste constituents are migrating from the surface impoundment into the vadose zone or the waters of the state in concentrations which pollute, or threaten to pollute, these waters.

(B) The person does not comply with the board's order or conduct the necessary removal or remedial actions, as required by paragraph (4).

The regional board shall also issue a cease and desist order pursuant to Section 13301 of the Water Code and require appropriate removal and remedial actions by the person granted the exemption, or the responsible parties, to clean up any pollution which may have occurred, upon making either of these determinations.

(c) Notwithstanding any other provision of law, a person shall not do either of the following, unless the person is granted an exemption pursuant to Section 25208.13, or unless the restricted hazardous waste is discharged into a surface impoundment which is located in a region exempted pursuant to subdivision (d) by the department:

(1) On or after January 1, 1985, discharge restricted hazardous wastes containing cyanide wastes or polychlorinated biphenyls (PCBs) into a surface impoundment.

(2) On or after July 1, 1985, discharge any restricted hazardous waste, not otherwise specified in paragraph (1), into a surface impoundment.

(d) The department may, by regulation, exempt, for a limited period of time, a particular category of restricted hazardous wastes which are being discharged into a surface impoundment located in a region of the state from the requirements of subdivision (c), if the department determines that a recycling or treatment process, which does not involve a discharge of restricted wastes into a surface impoundment, will not be available to recycle or treat substantially all of that category of restricted hazardous wastes in that region. If the department determines that a category of restricted hazardous wastes in a region should be exempted from the requirements specified in subdivision (c), the department shall determine the date when a recycling or treatment process in the region will become available and shall specify this as the date by which, in that region, the category of restricted hazardous waste shall then become subject to these requirements. The department shall, upon granting an ex-

emption, submit a report to the Legislature that explains the reasons for the exemption and specifies the date when the restricted hazardous waste will be subject to the requirements specified in subdivision (c).

25208.5. (a) Unless granted an exemption pursuant to subdivision (c) or Section 25208.13, on or after January 1, 1989, no person shall discharge any liquid hazardous waste or hazardous wastes containing free liquids into a surface impoundment, unless the surface impoundment is double lined, as specified in subdivision (b), equipped with a leachate collection system, and groundwater monitoring is conducted, in accordance with the federal Resource Conservation and Recovery Act of 1976, the regulations and guidance documents adopted pursuant thereto, and the regulations adopted by the state board and the department.

(b) Until the regulations and guidance documents specified in subdivision (a) relating to double liners for surface impoundments go into effect, the requirement of installing double liners in subdivision (a) may be satisfied by installing a top liner which is designed, operated, and constructed of materials to prevent the migration of any constituents into the top liner during the period the facility remains in operation, including any postclosure monitoring period, and by installing a lower liner which is designed, operated, and constructed to prevent the migration of any constituents through the lower liner during the same period, and is constructed of at least a three-foot thick layer of recompacted clay or other natural materials which have a permeability of not more than 1×10^{-7} centimeter per second.

(c) A person may apply for an exemption from subdivision (a) for a surface impoundment for which construction had begun on or before July 1, 1984, and which was issued waste discharge requirements by filing an application with the regional board on or before January 1, 1986. The initial application for exemption shall include a completed hydrogeological assessment report which contains the accurate data and documentation specified in Section 25208.8. An application for renewal of an exemption shall include the report only if required by the regional board. If the regional board has not granted the exemption by June 30, 1988, the person shall then comply with the requirements specified in subdivision (a), except that if the regional board denies the application for exemption but determines that a reasonable person would have applied for an exemption, the regional board may temporarily exempt the applicant from subdivision (a), for up to one year from the date of the denial of the exemption, for the sole purpose of bringing the surface impoundment into compliance with subdivision (a).

(d) The regional board may grant an exemption upon reviewing the application and making all of the following findings:

(1) The applicant has fully complied with subdivision (c).

(2) No hazardous waste constituents have migrated from the surface impoundment into the vadose zone or the waters of the state in

concentrations which pollute or threaten to pollute the waters of the state.

(3) Continuing the operation of the surface impoundment without the requirements specified in subdivision (a) does not pose a significant potential of hazardous waste constituents migrating from the surface impoundments into the vadose zone or the waters of the state, in concentrations which pollute or threaten to pollute the waters of the state.

(e) If the regional board grants an exemption pursuant to subdivision (d), the regional board shall revise the waste discharge requirements prescribed pursuant to Section 13263 of the Water Code for that surface impoundment based upon a review of the report and shall include conditions in the waste discharge requirements to ensure that the waters of the state will not be threatened with pollution or polluted.

(f) An exemption granted pursuant to subdivision (d) or (g) shall not be effective for more than five years. A regional board shall not renew the exemption unless the regional board makes the findings specified in subdivision (d).

(g) If a regional board does not take any action by June 30, 1988, on a completed application for an exemption that was filed on or before January 1, 1986, the person who filed the application may file a request with the state board on or before July 31, 1988, to review the application. The state board shall deny or grant the exemption pursuant to the findings specified in subdivision (d) within four months after the request for review is filed, and, if the board grants the exemption, the state board shall revise the waste discharge requirements pursuant to subdivision (e). An exemption granted pursuant to this subdivision is subject to the requirements specified in subdivision (f). The state board shall act on an application for exemption on or before November 30, 1988. A person who files a request for a review of an application with the state board is exempt from subdivision (a) until the state board acts on the application, and, if the state board denies the exemption, the applicant is exempt from subdivision (a) for one year from the date of the denial of the exemption for the sole purpose of bringing the surface impoundment into compliance with subdivision (a).

(h) Applications for an exemption or a renewal of an exemption shall be accompanied by the fee specified in the fee schedule adopted by the state board pursuant to Section 25208.3.

25208.6. When a regional board determines that a surface impoundment is polluting, or threatens to pollute, the waters of the state or that hazardous waste constituents are migrating from that surface impoundment into the vadose zone or the waters of the state, in concentrations which pollute the vadose zone, or pollute, or threaten to pollute, the waters of the state, the regional board shall either order the surface impoundment to close, if the regional board determines that requiring the installation of double liners and a leachate collection system and the conducting of groundwater moni-

toring, as specified in subdivision (a) of Section 25208.5, does not provide reasonable assurance of protection against future migration into the vadose zone or the waters of the state, or take both of the following actions:

(a) Issue a cease and desist order pursuant to Section 13301 of the Water Code prohibiting any discharge into the surface impoundment and require appropriate removal and remedial actions by the person or other responsible parties to clean up any pollution which may have occurred.

(b) Require the surface impoundment to comply with subdivision (a) of Section 25208.5. The regional board shall not grant an exemption for such a surface impoundment pursuant to subdivision (c) of Section 25208.5.

25208.7. (a) The regional board shall make at least one inspection per year of all facilities with surface impoundments, and shall regularly review monitoring data, as necessary, to ensure that all surface impoundments comply with this article and that any equipment or programs required pursuant to this article are operating properly.

(b) Each regional board shall establish a schedule and a notification system requiring the submission of reports to the regional board on or before January 1, 1988, by every person discharging liquid hazardous wastes or hazardous wastes containing free liquids into a surface impoundment located within the jurisdiction of the regional board. Any person discharging liquid hazardous wastes or hazardous wastes containing free liquids into a surface impoundment who receives this notice from the regional board shall submit a report to the regional board within the time specified in the notice, except that if the person has filed a report with an application for exemption, pursuant to subdivision (c) of Section 25208.5, the regional board shall not require the person to file a report.

25208.8. A person who receives a notice from a regional board, pursuant to Section 25208.7, or who files an application for an exemption pursuant to Section 25208.5 or 25208.13, shall submit a hydrogeological assessment report to the regional board. A qualified person shall be responsible for the preparation of the report and shall certify its completeness and accuracy. The report shall contain, for each surface impoundment, any information required by the state board or the regional board, and all of the following information:

(a) A description of the surface impoundment, including its physical characteristics, its age, the presence or absence of a liner, a description of the liner, the liner's compatibility with the hazardous wastes discharged to the impoundment, and the design specifications of the impoundment.

(b) A description of the volume and concentration of hazardous waste constituents placed in the surface impoundment, based on a representative chemical analysis of the specific hazardous waste type and accounting for variance in hazardous waste constituents over time.

(c) A map showing the distances, within the facility, to the nearest surface water bodies and springs, and the distances, within one mile from the facility's perimeter, to the nearest surface water bodies and springs.

(d) Tabular data for each surface water body and spring shown on the map specified in subdivision (c) which indicate its flow and a representative water analysis. The report shall include an evaluation and characterization of seasonal changes and, if substantive changes result from season to season, the tabular data shall reflect these seasonal changes.

(e) A map showing the location of all wells within the facility and the locations of all wells within one mile of the facility's perimeter. The report shall include, for each well, a description of the present use of the well, a representative water analysis from the well, and, when possible, the water well driller's report or well log.

(f) An analysis of the vertical and lateral extent of the perched water and water-bearing strata which could be affected by leachate from the surface impoundment, and the confining beds under and adjacent to the surface impoundment. This analysis shall include all of the following:

(1) Maps showing contours of equal elevation of the water surface for perched water, unconfined water, and confined groundwater required to be analyzed by this subdivision.

(2) An estimate of the groundwater flow, direction of the perched water, and all water-bearing strata on both the maps and the subsurface geologic cross sections.

(3) An estimate of the transmissivity, permeability, and storage coefficient for each perched zone of water and water-bearing strata identified on the maps specified in paragraph (1).

(4) A determination of the rate of groundwater flow.

(5) A determination of the water quality of each zone of the water-bearing strata and perched water which is identified on the maps specified in paragraph (1) and which is under, or adjacent to, the facility. This determination shall be conducted by taking samples either from upgradient of the surface impoundment or from another location which has not been affected by leakage from the surface impoundment.

(g) An indication as to whether the groundwater is contiguous with regional bodies of groundwater and the depth measured to the groundwater, including the depth measured to perched water and water-bearing strata identified on the maps specified in paragraph (1).

(h) The following climatological information:

(1) A map showing the contours for the mean annual long-term precipitation for the surrounding region within 10 miles of the surface impoundment.

(2) Calculations estimating the maximum 24-hour precipitation and maximum and minimum annual precipitation at the facility based upon direct measurement at the facility or upon measured

values of precipitation from a nearby climatologically similar station.

(3) The projected volume and pattern of runoff for any streams which, in a 100-year interval, could effect the facility, including peak stream discharges associated with storm conditions.

(i) A description of the composition of the vadose zone beneath the surface impoundment. This description shall include a chemical and hydrogeological characterization of both the consolidated and unconsolidated rock material underlying the surface impoundment, and an analysis for pollutants, including those constituents discharged into the surface impoundment. This description shall also include soil moisture readings from a representative number of points around the surface impoundment's perimeter and at the maximum depth of the surface impoundment. The report shall arrange all monitoring data in a tabular form so that the data, the constituents, and the concentrations are readily discernible.

(j) A measurement of the chemical characteristics of the soil made by collecting a soil sample upgradient from the impoundment or from an area which has not been affected by seepage from the surface impoundment and which is in a hydrogeologic environment similar to the surface impoundment. The measurement shall be analyzed for the same pollutants analyzed pursuant to subdivision (i).

(k) A description of the existing monitoring being conducted to detect leachate, including vadose zone monitoring, the number and positioning of the monitoring wells, the monitoring wells' distances from the surface impoundment, the monitoring wells' design data, the monitoring wells' installation, the monitoring development procedures, the sampling methodology, the sampling frequency, the chemical constituents analyzed, and the analytical methodology. The design data of the monitoring wells shall include the monitoring wells' depth, the monitoring wells' diameters, the monitoring wells' casing materials, the perforated intervals within the well, the size of the perforations, the gradation of the filter pack, and the extent of the wells' annular seals.

(*l*) Documentation demonstrating that the monitoring system and methods used at the facility can detect any seepage before the hazardous waste constituents enter the waters of the state. This documentation shall include, but is not limited to, substantiation of each of the following:

(1) The monitor wells are located close enough to the surface impoundment to identify lateral and vertical migration of any constituents discharged to the impoundment.

(2) The monitoring wells are not located within the influence of any adjacent pumping wells which might impair their effectiveness.

(3) The monitor wells are only screened in the aquifer to be monitored.

(4) The chosen casing material does not interfere with, or react to, the potential contaminants of major concern at the facility.

(5) The casing diameter allows an adequate amount of water to

be removed during sampling and allows full development of the monitor well.

(6) The annular seal prevents pollutants from migrating down the monitor well.

(7) The methods of water sample collection require that the sample is collected after at least five well volumes have been removed from the well and that the samples are transported and handled in accordance with the regulations adopted by the United States Geological Service (pursuant to Chapter 2 (commencing with Section 31) of Title 43 of the United States Code) concerning the guidelines for collection and analysis of groundwater samples for selected unstable constituents.

(8) The hazardous waste constituents selected for analysis are specific to the facility, taking into account the chemical composition of hazardous wastes previously placed in the surface impoundment. The monitoring data shall be arranged in tabular form so that the date, the constituents, and the concentrations are readily discernible.

(9) The frequency of monitoring is sufficient to give timely warning of leachate so that remedial action can be taken prior to any adverse changes in the quality of the groundwater.

(10) A written statement from the qualified person preparing the report indicating whether any constituents have migrated into the vadose zone, surface water bodies, perched water, or water-bearing strata.

(11) A written statement from the qualified person preparing the report indicating whether any migration of leachate into the vadose zone, surface water bodies, perched water, or water-bearing strata is likely or not likely to occur within five years, and any evidence supporting that statement.

25208.9. (a) Notwithstanding Section 25189, any person who is required to file a hydrogeological assessment report with a regional board pursuant to Section 25208.7, and who fails to do so, shall be liable civilly in a sum of not less than one thousand dollars ($1,000) and not more than ten thousand dollars ($10,000) for each day the report has not been received.

(b) Notwithstanding Section 25189, any person who submits false information to the regional board shall be liable civilly in a sum of not less than two thousand dollars ($2,000) and not more than twenty-five thousand dollars ($25,000) for each day the false information goes uncorrected.

(c) In determining the amount of civil liability imposed pursuant to this section, the court shall consider all relevant circumstances, including, but not limited to, the extent of harm or potential harm caused by the violation, the nature of the violation and the period of time over which it occurred, the frequency of past violations, and the corrective action, if any, taken by the person.

(d) A regional board shall submit any report which contains false information to the State Board for Geologists and Geophysicists for the purpose of disciplinary action pursuant to Section 7860 of the

Business and Professions Code or to the State Board of Registration for Professional Engineers and Land Surveyors for the purpose of taking disciplinary action pursuant to Section 6775 of the Business and Professions Code, as appropriate.

25208.10. For purposes of performing the functions and duties provided for in this article, and because of the urgency in protecting the public, the state board and regional boards may, during the 1984–85 fiscal year, contract for temporary services necessary to implement this article.

25208.11. This article shall not be construed to limit or abridge the powers and duties granted to the department pursuant to this chapter or pursuant to Chapter 6.8 (commencing with Section 25300) or to the state board or any regional board pursuant to Division 7 (commencing with Section 13000) of the Water Code.

25208.12. Article 2 (commencing with Section 13320) of, Article 3 (commencing with Section 13330) of, and Article 4 (commencing with Section 13340) of, Chapter 5 of Division 7 of the Water Code applies to any action of, or failure to act by, a regional board pursuant to this article.

25208.13. (a) If the state board adopts regulations specifically applicable to the discharge of mining wastes into a surface impoundment and if the regional board determines that certain mining wastes have generic properties so that the wastes do not pose a threat to the waters of the state, the regional board may exempt a surface impoundment into which these mining wastes are discharged from Sections 25208.4 and 25208.5, pursuant to subdivision (b).

(b) A person may apply to a regional board authorized pursuant to subdivision (a) for an exemption from Sections 25208.4 or 25208.5, or from both sections, for a surface impoundment, into which mining wastes are discharged by filing an application with the regional board. If the surface impoundment was constructed before January 1, 1984, the person shall file the application with a regional board by January 1, 1986. The initial application for exemption shall include a completed hydrogeological assessment report which contains the accurate data and documentation specified in Section 25208.8. A regional board may grant the applicant an exemption from Section 25208.4 or 25208.5, or both, if the regional board makes both of the following findings:

(1) The applicant for the exemption has fully complied with all the applicable regulations adopted by the state board for mining waste.

(2) The surface impoundment does not pollute or threaten to pollute the waters of the state.

(c) If the regional board grants an exemption pursuant to subdivision (b), the regional board shall revise the waste discharge requirements prescribed pursuant to Section 13263 of the Water Code for that surface impoundment based upon a review of the report and shall include conditions in the waste discharge requirement to ensure that the waters of the state will not be polluted or threatened

with pollution. If the regional board does not grant the exemption within two years of the date of application, the applicant shall comply with the requirements specified in either Section 25208.4 or 25208.5, or with both sections, whichever is applicable, within three years from the initial date of application.

(d) An exemption granted pursuant to subdivision (b) shall not be effective for more than five years. A regional board shall not renew the exemption unless the regional board makes the findings specified in subdivision (b).

(e) Applications for an exemption or renewal of an exemption shall be accompanied by the fee specified in the fee schedule adopted by the state board pursuant to Section 25208.3.

(f) If a regional board determines that a surface impoundment granted an exemption pursuant to subdivision (b) is polluting the waters of the state, the regional board shall take all of the actions specified in Section 25208.6.

25208.14. Not later than January 1, 1987, the state board shall provide the Legislature with a report containing information regarding the number of applications for exemption which are filed pursuant to Sections 25208.4 and 25208.5. The state board shall include in this report a preliminary workplan detailing plans for implementation of this article.

The time limits set forth in this article are predicated upon the assumption that there will be not more than 300 applications filed pursuant to subdivision (b) of Section 25208.4 and subdivision (c) of Section 25208.5. The time limits set forth in this article assume that there are, on the average, three surface impoundments per facility.

It is the intent of the Legislature that if it determines that there are more than 300 applications filed with regional boards with on the average, more than three surface impoundments for each facility, the Legislature will adjust the time limits specified in Sections 25208.4 and 25208.5.

The Legislature hereby recognizes that if there are more than 300 applications filed by January 1, 1986, with the regional boards, the time limits should be adjusted to ensure a thorough analysis of each application.

SEC. 3. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 4. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. Some of these costs which may be incurred by a local agency or school district are because this act creates a new crime or infraction. As to other costs, it is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1

of that code.

CHAPTER 1544

An act to amend Section 14015 of, and to add Section 14132.7 to, the Welfare and Institutions Code, relating to Medi-Cal benefits.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 14015 of the Welfare and Institutions Code is amended to read:

14015. The providing of health care under this chapter shall not impose any limitation or restriction upon the person's right to sell, exchange or change the form of property holdings nor shall the care provided constitute any encumbrance on the holdings. However, any transfer of the holdings by gift or, knowingly, without adequate and reasonable consideration, shall be presumed to constitute a gift of property with intent to qualify for assistance and such act shall disqualify the owner for further aid for a period determined under standards established by the director, and in no event for less than half of the period that the capital value of the transferred property would have supplied the person's maintenance needs based on his circumstances at the time of his transfer plus the cost of any needed medical care.

Any item of durable medical equipment which is purchased for a recipient pursuant to this chapter exclusively with Medi-Cal program funds shall be returned to the department when the department determines that the item is no longer medically necessary for the recipient. Items of durable equipment shall include, but are not limited to, wheelchairs and special hospital beds.

SEC. 2. The Legislature finds and declares that heart transplant operations generally do not constitute surgery of an experimental nature.

SEC. 3. Section 14132.7 is added to the Welfare and Institutions Code, to read:

14132.7. Notwithstanding any other provision of this chapter, and to the extent permitted by federal law, the Medi-Cal program shall pay for donor and recipient surgery, subject to utilization controls, when a heart transplant is provided a beneficiary under this chapter, if the medical facility involved has been approved by the department to perform heart transplant surgery. If the requirements of this section have been met by the medical facility performing the transplant surgery, the medical facility performing the donor surgery shall be reimbursed for the donor surgery.

CHAPTER 1545

An act relating to military affairs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. The Legislature finds and declares that the State Military Reserve performs essential functions in supporting of the California National Guard and by standing ready to assume the duties and functions of the National Guard within the state whenever the National Guard is called into federal service.

The Legislature further finds and declares that the State Military Reserve is a vital asset to the people of California and that it is necessary for the state to support and encourage the professionalism of this volunteer organization and to improve training and facilities so that the Reserve will always be ready to respond immediately whenever called upon in any natural disaster or civil emergency to protect and preserve the lives and property of the citizens of the state.

The Legislature further finds and declares that among the most immediate and urgent needs of the State Military Reserve are funds for the following uses and purposes:

(a) The costs of training programs, classes, and seminars, together with related expenses for meals and lodging for Reserve personnel.

(b) The costs of providing workers' compensation coverage for personnel while on training duties.

(c) Necessary uniforms for enlisted personnel.

(d) For the Aviation Brigade, necessary aircraft fuel and maintenance for training exercises.

(e) For the Medical Brigade, medical and related equipment and supplies.

(f) One full-time coordinator position and one full-time clerical position for the state headquarters of the Reserve.

(g) Administrative and office supplies and materials necessary for the efficient organization and operation of the Reserve.

It is, therefore, the intention of the Legislature in the enactment of this act that sufficient annual funding is provided in order to meet the essential materiel and support requirements of the State Military Reserve to enable the Reserve to maintain that condition of training and state of readiness as will enable it to respond whenever called upon.

SEC. 2. The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund to the State Military Reserve for the 1984–85 fiscal year for expenditure upon approval of

the Adjutant General for purposes of the State Military Reserve. It is the intent of the Legislature that this funding be continued at not less than this level of support in succeeding years through the annual budget for the Military Department.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide funding for the urgent requirements of the State Military Reserve commencing with the 1984–85 fiscal year, it is necessary that this act become effective immediately.

CHAPTER 1546

An act to add Article 11.5 (commencing with Section 25242) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to hazardous waste, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Article 11.5 (commencing with Section 25242) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 11.5. Hazardous Waste Disposal on Public Land

25242. (a) Any city, county, or state agency which, as owner, lessor, or lessee, knows or has probable cause to believe that a disposal of hazardous waste which is not authorized pursuant to this chapter has occurred on, under, or into the land which the city, county, or state agency owns or leases shall notify the department. Upon receiving that notice, the department shall determine if there has been a disposal of hazardous waste which is not authorized pursuant to this chapter.

(b) If the department determines that there has been a disposal of hazardous waste which is not authorized pursuant to this chapter, the department shall do all of the following:

(1) Conduct, or arrange for the conducting of, tests to determine the general chemical and mineral composition of the hazardous waste.

(2) Require the city, county, or state agency which submitted the notice pursuant to subdivision (a) to prepare a hazardous waste management plan specifying those removal or remedial actions, as defined in Sections 25322 and 25323, which are needed to be taken

concerning the hazardous waste. The hazardous waste management plan shall provide for the protection of human health and the environment and minimize or eliminate the escape of hazardous waste constituents, leachate, contaminated rainfall, and waste decomposition products into ground and surface waters and into the atmosphere.

(3) Send notice of the department's findings made pursuant to paragraph (1) to the county in which the land is located, the city, if any, in which the land is located, the owner of the property, and residents living within 2,000 feet of the property line of the land on which the hazardous wastes were disposed. The department shall also post signs in the vicinity of the land which contain this information and are visible to the public. The department may also provide this notice to other persons, or post these signs in any other area, to protect the public health and safety or to provide the maximum opportunity for comment from the potentially affected public.

(4) Conduct public hearings on the proposed hazardous waste management plan during those times and at those places which are convenient to the affected public. These hearings shall be conducted even if the hazardous waste management plan provides that no removal or remedial actions will be taken. The department shall publish notice of these hearings in newspapers of general circulation, as defined in Section 6000 of the Government Code, and shall use all other reasonable means to publicize these hearings.

(5) Take all actions required by Section 25358.7 concerning any proposed removal or remedial actions.

(6) Take any other actions authorized by this chapter or Chapter 6.8 (commencing with Section 25300) to carry out the legislative intent specified in Section 25342.1.

(c) The city, county, or state agency which is required to prepare a hazardous waste management plan pursuant to paragraph (2) of subdivision (b) shall submit the proposed hazardous waste management plan for approval to the department or a California Regional Water Quality Control Board, whichever the department determines is appropriate. A city or state agency shall submit the plan to the county in which the land is located, and a county or state agency shall submit the plan to the city, if any, in which the land is located, for comments and recommendations. The city, county, or state agency shall also consider whether to incorporate any changes in the plan which are recommended by the county, city, and the public.

25342.1. It is the intention of the Legislature, in enacting this article, to protect the public health and safety and the environment by requiring all of the following:

(a) Prompt steps to remedy the unauthorized disposal of hazardous waste on public land be taken as soon as possible.

(b) Prompt notice be given to the affected public of such an unauthorized disposal of hazardous waste.

(c) The public be afforded an opportunity for input into the manner in which the hazardous waste will be cleaned up or rendered safe.

25342.2. Prior to, or simultaneously with, utilizing the provisions of this article, the department shall diligently pursue all feasible civil and criminal actions against the owner of the land or other party responsible for the disposal of the hazardous waste, who violates this chapter or the regulations adopted pursuant to this chapter.

The owner, lessee, or lessor of any land which is affected by hazardous waste which was disposed on, under, or into the land may recover the costs incurred in complying with this article, in a civil action, from any person who produced the waste or against any other person who was responsible for the disposal of the hazardous waste.

The lessee of any land, who was not responsible for the unauthorized disposal of the hazardous waste upon that land, may also recover the costs incurred in complying with this article from the owner of the land if the person who produced the waste or who was responsible for the disposal of hazardous waste cannot be located or cannot compensate the lessee for these costs.

24342.3. If any provision of this article or the application thereof to any person or circumstance is held invalid, this holding shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end, the provisions of the article are severable.

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

SEC. 3. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the public health and safety and the environment from insufficiently planned hazardous waste removal or remedial actions and to provide prompt notification of a potential danger to the public, it is necessary that this act take effect immediately.

CHAPTER 1547

An act to amend Sections 11104 and 11366.7 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 11104 of the Health and Safety Code is amended to read:

11104. Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the substances listed in subdivision (a) of Section 11100 with knowledge or the intent that the recipient will use the substance to unlawfully manufacture a controlled substance is guilty of a felony.

SEC. 2. Section 11366.7 of the Health and Safety Code is amended to read:

11366.7. Any retailer or wholesaler who sells any chemical, drug, laboratory apparatus, or device with knowledge or the intent that the chemical, drug, laboratory apparatus, or device will be used to unlawfully manufacture, compound, convert, process, or prepare a controlled substance for unlawful sale or distribution shall be punished by imprisonment in the county jail for not more than one year, or in the state prison.

CHAPTER 1548

An act relating to the state park system, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. The sum of one million seven hundred thirteen thousand dollars ($1,713,000) is hereby appropriated from the Special Account for Capital Outlay in the General Fund to the Department of Parks and Recreation for expenditure in the 1984–85, 1985–86, and 1986–87 fiscal years for restoration of the John Marsh Home.

SEC. 2. Notwithstanding Section 5010 of the Public Resources Code or any other provision of law, the moneys received from the Land and Water Conservation Fund for the federal share of the Burton Creek area land acquisition project, authorized in category

(a) of Section 9.3 of Chapter 1064 of the Statutes of 1973, shall be deposited in the State Beach, Park, Recreational, and Historical Facilities Fund of 1974.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to commence urgently needed repairs of the John Marsh Home and to reimburse the State Beach, Park, Recreational, and Historical Facilities Fund of 1974 at the earliest opportunity, it is necessary that this act take effect immediately.

CHAPTER 1549

An act to amend Sections 33200 and 33205 of the Public Resources Code, relating to the Santa Monica Mountains Conservancy.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 33200 of the Public Resources Code, as amended by Chapter 193 of the Statutes of 1984, is further amended to read:

33200. (a) The Santa Monica Mountains Conservancy is hereby established. The conservancy shall be composed of seven voting members and two ex officio members. The voting members shall be as follows:

(1) The Director of the National Park Service or an employee designated by the director.

(2) A member representing the City of Los Angeles, appointed by the Mayor with the approval of the city council.

(3) Three public members who shall be residents of either the County of Los Angeles or the County of Ventura, one of whom shall be appointed by the Governor, one of whom shall be appointed by the Senate Rules Committee, and one of whom shall be appointed by the Speaker of the Assembly. At least one of the public members shall reside within the San Fernando Valley statistical area, as defined in Section 11093 of the Government Code.

(4) A member appointed by the Board of Supervisors of the County of Los Angeles, or the member's designee.

(5) An elected official who is either a member of the City Council of the City of Thousand Oaks or a member of the Board of Supervisors of the County of Ventura and who shall be appointed by the Board of Supervisors of the County of Ventura, or the elected official's designee.

The seat of a public member shall be deemed vacant if the

member changes his or her residence to a county other than Los Angeles or Ventura County.

The California Coastal Commission and the State Coastal Conservancy shall each appoint an ex officio member who shall be either a member or employee of their respective agency. The ex officio member appointed by the California Coastal Commission and the State Coastal Conservancy shall be nonvoting members, except that the ex officio member appointed by the State Coastal Conservancy may vote on any matter relating to a project undertaken within the coastal zone portion of the zone.

On the 10th working day after certification pursuant to Chapter 6 (commencing with Section 30500) of Division 20 of any local coastal program, or any portion thereof, for any portion of the zone, the ex officio member appointed by the California Coastal Commission may vote on any matter relating to a project undertaken within the coastal zone portion of the zone and the ex officio member appointed by the State Coastal Conservancy may not vote on the matter.

(b) The chairperson and vice chairperson of the conservancy shall be selected by the voting members of the conservancy for a one-year term. A majority of the total authorized and appointed voting membership of the conservancy constitutes a quorum for the transaction of any business under this division.

(c) The following members of the conservancy shall be compensated for attendance at regular meetings of the conservancy at the rate of one hundred dollars ($100) per day:

(1) The public members.

(2) The member appointed by the Board of Supervisors of the County of Los Angeles or that member's designee, unless the member or designee is also a member of the board of supervisors, in which case no compensation shall be paid.

(3) The member appointed by the Board of Supervisors of the County of Ventura or that member's designee, unless the member or designee is also a member of a board of supervisors, in which case no compensation shall be paid.

(4) The members appointed by the State Coastal Conservancy and the California Coastal Commission if these members are also public members of their respective agencies.

(5) The appointed member representing the City of Los Angeles.

All members of the conservancy shall be reimbursed for actual and necessary expenses, including travel expenses, incurred in the performance of their duties.

SEC. 2. Section 33205 of the Public Resources Code is amended to read:

33205. The conservancy shall not hold lands acquired in accordance with subdivision (d) of Section 33204 more than 10 years from the time of acquisition. A city, county, recreation and park district, the National Park Service, or a state agency may acquire the land any time during that period for park, recreation, or resource preservation purposes. The acquisition price to the agencies shall be

based upon the cost of acquisition under this division, plus administrative and management costs in reserving the land, unless the conservancy determines that the agency will operate and maintain the property for park, recreation, or resource preservation purposes in accordance with standards set by the conservancy, and that the property will not be converted to other uses without the approval of the conservancy. In the cases where the conservancy makes this determination, it may transfer the property without consideration or it may set another acquisition price as mutually agreed upon by the parties. However, in any case where there is a transfer without consideration, or where the consideration is less than acquisition and administrative and management costs, the property shall first be offered to the Department of Parks and Recreation, and, if the department is unwilling or unable to accept the property, the conservancy may then transfer or sell the property to a city, county, recreation and park district, or the National Park Service pursuant to this section. The conservancy shall include in each instrument transferring title of state property to the National Park Service a provision which assures that the property is operated in a manner suitable for park, recreation, or resource preservation purposes. The conservancy shall include in each instrument transferring title of state property to a state or local agency a provision for reversion of the property to the state if the property ceases to be used for park, recreation, or resource preservation purposes. Lands acquired under subdivision (d) of Section 33204 shall not be disposed of pursuant to Section 11011.1 of the Government Code.

If, at the expiration of the 10-year period, no agency is willing or able to acquire the lands, the conservancy shall request the Real Estate Services Division of the Department of General Services to dispose of the lands at fair market value subject to restrictions that are consistent with this division.

Any funds received by the state upon disposition of lands acquired in accordance with subdivision (a) or (d) of Section 33204 shall be deposited in the fund and shall be available for the purposes of this division. Any funds received by the state under this section upon disposition of lands acquired with funds granted pursuant to Section 507(n) of the National Parks and Recreation Act of 1978 (16 U.S.C. Sec. 460kk(n)) shall be deposited in the federal grant account in the fund and shall be available for the purposes of this division when authorized by the Secretary of the Interior.

CHAPTER 1550

An act to add Part 3 (commencing with Section 52000) to Division 1 of Title 5 of the Government Code, relating to local agencies.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Part 3 (commencing with Section 52000) is added to Division 1 of Title 5 of the Government Code, to read:

PART 3. CITY AND COUNTY AGENCIES

CHAPTER 1. COMMUNITY ENERGY AUTHORITY

Article 1. General Provisions

52000. This chapter may be cited as the Community Energy Authority Act.

52001. It is the intent of the Legislature in enacting this part to provide the means by which a county or city can plan and implement a comprehensive energy strategy that will assist in planning energy projects and uses that will encourage energy efficiency and conservation in new and existing construction and will also minimize the impact of future energy price increases on financially disadvantaged low- and moderate-income households as well as adversely affecting the stability of the local economy.

52002. Unless the context otherwise requires, the definitions contained in this article govern the construction of this chapter.

52003. "Authority" means a community energy authority created pursuant to this chapter.

52004. "City" means any city or city and county.

52005. "County" means any county.

52006. "Governing body" means the city council in the case of a city or the board of supervisors in the case of a county.

52007. "Area of operation" means either of the following:

(a) In the case of an authority created by a city, the area within its boundaries. It does not include any area which lies within another city unless the governing body of the other city has consented by resolution or ordinance. It does not include any area which lies within the unincorporated area of any county.

(b) In the case of an authority created by a county, all of the county except the area within any city.

52008. "Federal government" means the United States, or any agency or instrumentality of the United States.

52009. "Energy project" means any project within the city's or county's boundaries that directly or indirectly involves a substantial

use of energy in its operation, except that this part does not apply to any work or project undertaken within the city or county by a privately owned public utility to maintain or extend service to its customers or subscribers.

52010. "Bond" means any bonds, notes, certificates of participation, interim certificates, debentures, or other obligations issued by an authority pursuant to this chapter.

52011. If any provision of this chapter or its application to any person or circumstance is held invalid, this invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

52012. This chapter shall be interpreted liberally to effect its purposes.

Article 2. Creation of Community Energy Authorities

52030. The governing body of any county or city may, by resolution or ordinance, create a community energy authority.

52031. (a) The governing bodies of any two or more cities or counties or any combination thereof may by agreement create an area energy authority. Each governing body that is a party to such an agreement shall appoint two persons as commissioners of the authority, and the governing bodies shall jointly appoint one commissioner at large, and, upon appointment of all required commissioners, the area energy authority shall be authorized to exercise all of the powers which a community energy authority is authorized to exercise.

(b) Commissioners appointed pursuant to subdivision (a) shall serve at the pleasure of the governing bodies which appointed them.

(c) A majority of the commissioners of an area energy authority constitutes a quorum for the purpose of conducting business and exercising its powers and for all other purposes. Action may be taken by the area energy authority upon a vote of a majority of the commissioners.

(d) The commissioners shall select a chairperson from their number.

52032. The area of operation of an authority created pursuant to Section 52031 shall be the combined possible areas of operation of participating cities and counties, as determined by Section 52007.

52033. As an alternative to Section 52032, two or more governing bodies may jointly exercise any power under this chapter pursuant to a joint powers agreement entered into pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1.

Article 3. Officers and Employees

52050. The members of the governing body shall, ex officio, be the commissioners of the authority except in the case of an area

energy authority, as provided by Section 52031.

52051. The powers and functions of an authority are vested in its commissioners.

52052. A majority of the commissioners constitutes a quorum for purposes of conducting the business of the authority. The commissioners shall act by majority vote thereof.

52053. The authority may adopt rules and regulations not in conflict with law.

52054. The records of the authority shall be open to public inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

52055. The commissioners shall provide by resolution for the time and place of holding their regular meetings. Special meetings may be called by the chairperson or by two commissioners, and notice thereof shall be mailed to each commissioner and posted in a public place at least 48 hours before the meeting. All meetings of an authority shall be open and public in accordance with the Ralph M. Brown Act (Chapter 5 (commencing with Section 54950) of Part 1).

52056. The authority may create advisory committees as deemed necessary for any purpose of the authority.

Article 4. Alternative Officers

52080. As an alternative to serving as the commissioners of the authority, the governing body of any county or city, at the time of the adoption of a resolution or ordinance pursuant to Section 52030 or at any time thereafter, may appoint other persons as commissioners of the authority. The governing body shall, in this case, specify the number and appointment of commissioners, except that there shall be not less than three commissioners. The governing body shall prescribe the powers and functions delegated to commissioners appointed under this article.

52081. A governing body of a county or city which has appointed commissioners pursuant to this article retains the power of review and approval of all actions of the authority and may, at any time by resolution or ordinance, determine that it shall resume control of the authority, in which event the appointed commissioners shall no longer function as such.

Article 5. Powers and Duties

52100. For purposes of the District Reorganization Act of 1965 (Division 1 (commencing with Section 56000) of Title 6), an authority, except as otherwise provided in this part, is a subsidiary district, as defined in Section 56073, to the governing body which created it. An authority has all the powers necessary to carry out the purposes of this chapter, except as limited by the governing body which created it. The governing body may use any of its powers on behalf of an authority which it created.

52101. An authority may, subject to the approval of the governing body, do all of the following:

(a) Sue and be sued.

(b) Have a seal and alter it.

(c) Have a perpetual succession.

(d) Make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

52102. Within its area of operation, an authority may do all of the following:

(a) Exercise all powers and authority related to energy projects designated by the governing body and deemed to be necessary and appropriate to carry out the responsibilities of the authority, including, but not limited to, assistance in planning energy projects and uses to encourage energy conservation in new and existing construction and to minimize future energy price increases.

(b) Coordinate or provide energy programs and services to the community, particularly to persons of low and moderate income and to smaller businesses.

(c) Apply for, accept, and utilize any available funds appropriate to the authority's activities from federal, state, county, special district, or private sources.

52103. An authority may, subject to approval by the governing body, contract for the furnishing by any person, business, public utility, or agency, public or private, including community-based organizations, of services.

52104. To the extent feasible, an authority shall utilize the employees and services of the county or city for its operations. If the governing body determines that it is not feasible for the authority to utilize its employees or services, the governing body may authorize the authority to employ its own staff and to contract for services needed.

52105. An authority shall apply for and obtain any permits, licenses, certificates, or approvals that may be necessary for an authority owned and operated energy project, and may construct, maintain, and operate energy projects in accordance with these licenses, permits, certificates, or approvals.

52106. An authority may, subject to the direction of the governing body, do all of the following:

(a) Conduct public hearings for all energy projects.

(b) Hold public hearings to review and approve all projects being developed within the community that involve a substantial use of energy and may impact the economic stability of the local economy, with particular attention to the impact on low- and moderate-income households.

(c) Exempt specific projects from the review process.

52107. All energy projects shall be consistent with all state, regional, and local planning, zoning, sanitary, safety, and building laws, ordinances, and regulations applicable to the jurisdiction in which the project is located.

Article 6. Bonds

52120. An authority may issue bonds pursuant to the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2), except that, notwithstanding Section 54309, 54309.1, 54310, or 54311, an authority may issue bonds to finance an energy project under this part.

Article 7. Claims

52170. All claims for money or damages against the authority are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 except as provided therein, or by other statutes or regulations expressly applicable thereto. Claims, the risk or hazard of which are covered by insurance pursuant to the authorization of subdivision (c) of Section 52106 and which have been presented in accordance with Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1, may be referred to the carrier insuring against that risk or hazard for further action in accordance with the procedure specified by the authority.

Article 8. Tax Exemption of Community Energy Authority

52180. It has been found and declared by the Legislature that the activities of an authority constitute an important governmental function and are for public uses and purposes and are governmental functions of state concern. As a matter of legislative determination, it is hereby found and declared that the property, projects, and bonds of an energy authority are of such character as shall be exempt from taxation.

52181. The property of an authority is exempt from all taxes and special assessments of the state or any city, county, or political subdivision of the state. In lieu of these taxes or special assessments the authority may agree to make payments to any city, county, or political subdivision of the state for services, improvements, or facilities furnished by the city, county, or political subdivision for the benefit of an energy project owned by the authority.

52182. The bonds of an authority are issued for an essential public and governmental purpose, and, together with interest thereon and income therefrom, are exempt from all taxes.

Article 9. Prohibitions

52190. Nothing in this act allows an authority to acquire or operate any public utility facilities or property employed in the generation, transmission, or distribution of gas, electricity, steam, or water, except by mutual agreement between the authority and the public utility.

CHAPTER 1551

An act to amend Sections 30610.8, 31011, and 31251.2 of, and to add Section 31118 to, the Public Resources Code, relating to the State Coastal Conservancy.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 30610.8 of the Public Resources Code is amended to read:

30610.8. (a) The Legislature hereby finds and declares that a dispute exists at the Hollister Ranch in Santa Barbara County with respect to the implementation of public access policies of this division and that it is in the interest of the state and the property owners at the Hollister Ranch to resolve this dispute in an expeditious manner. The Legislature further finds and declares that public access should be provided in a timely manner and that in order to achieve this goal, while permitting property owners to commence construction, the provisions of this section are necessary to promote the public's welfare.

(b) For purposes of Section 30610.3 and with respect to the Hollister Ranch public access program, the in-lieu fee shall be five thousand dollars ($5,000) for each permit. Upon payment by the applicant for a coastal development permit of this in-lieu fee to the State Coastal Conservancy for use in implementing the public access program, the applicant may immediately commence construction if the other conditions of the coastal development permit, if any, have been met. No condition may be added to a coastal development permit that was issued prior to the effective date of this section for any development at the Hollister Ranch.

(c) It is the intent of the Legislature that the State Coastal Conservancy and the State Public Works Board utilize their authority provided under law to implement, as expeditiously as possible, the public access policies and provisions of this division at the Hollister Ranch in Santa Barbara County.

(d) Notwithstanding provision 2 of category (2) of Item 3760-490-721 of the Budget Act of 1984, all in-lieu fees received pursuant to this section shall be deposited in the State Coastal Conservancy Fund and shall be available for appropriation to the conservancy for the purposes specified in subdivision (d) of Section 5096.151.

SEC. 2. Section 31011 of the Public Resources Code is amended to read:

31011. Any funds received by the department pursuant to this division shall be deposited in the State Parks and Recreation Fund. Unless otherwise provided in this division, any funds received by the

conservancy pursuant to this division shall be deposited in the State Coastal Conservancy Fund. The conservancy and the Controller shall establish separate accounts within the State Coastal Conservancy Fund for the purpose of separating deposits into the fund according to their origin.

SEC. 3. Section 31118 is added to the Public Resources Code, to read:

31118. The conservancy may seek repayments of funds granted pursuant to this division on terms and conditions as it deems appropriate to carry out the provisions of this division.

SEC. 4. Section 31251.2 of the Public Resources Code is amended to read:

31251.2. (a) In order to enhance the natural or scenic character of coastal resources within the coastal zone, the conservancy may undertake a project or award a grant, consistent with subdivision (a) of Section 30200 and pursuant to this chapter, to enhance a watershed resource that is partly outside of the coastal zone. Any of these projects or grants which involve the management of fish shall be approved by the Department of Fish and Game.

Neither the conservancy nor any other state agency shall undertake a project affecting an area partly inside and partly outside the coastal zone under this chapter, except at the request of the local public agency or agencies having jurisdiction over the entire project area.

(b) Any enhancement activity carried out pursuant to this section shall not be subject to any commission review, as set forth in Section 31258, for that portion of the activity located outside the coastal zone. However, the commission through its executive director and the Department of Fish and Game may review and comment on the enhancement plan's consistency with the policies and objectives of Division 20 (commencing with Section 30000).

(c) No funds set forth in subdivision (c) of Section 5096.151 of the Public Resources Code, shall be expended on enhancement activities that are outside the coastal zone.

(d) This section shall not apply to any portion of the Santa Monica Mountains Zone as set forth in Division 23 (commencing with Section 33000).

SEC. 5. Any in-lieu fees which were received pursuant to Section 30610.8 of the Public Resources Code prior to January 1, 1985, shall be deposited in the State Coastal Conservancy Fund and shall be available for appropriation to the conservancy for the purposes specified in subdivision (d) of Section 5096.151 of the Public Resources Code.

SEC. 6. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

CHAPTER 1552

An act to amend Section 35603 of the Water Code, relating to California water districts.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 35603 of the Water Code is amended to read:

35603. A district may construct any works along, under, or across any stream of water, watercourse, street, avenue, highway, railway, canal, ditch, or flume which the route of a pipeline or canal of the works may proceed along or across in a manner that will afford security for life and property. The district shall restore the property crossed as near as may be to its former state or so as not to have impaired unnecessarily its usefulness. Every company whose railroad is crossed by the works shall unite with the district in forming the crossing and shall grant the necessary privileges.

CHAPTER 1553

An act to add Sections 19632.5 and 19632.6 to the Business and Professions Code, and to amend Section 6817 of the Public Resources Code, relating to fiscal affairs, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984]

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

SECTION 1. Section 19632.5 is added to the Business and Professions Code, to read:

19632.5. (a) After the payments required pursuant to subdivisions (a) and (b) of Section 19632, but prior to any payments pursuant to subdivision (c) of that section, ten million dollars ($10,000,000) of the license fees specified in Section 19632 shall be deposited in a special account in the Fair and Exposition Fund and those moneys, including any earnings on the moneys so deposited, shall be used solely by the 51st District Agricultural Association for the acquisition or development, or both, of a fairgrounds site.

(b) The moneys in the account are hereby appropriated, without regard to fiscal years, to the 51st District Agricultural Association for the purpose specified in subdivision (a), to be expended, with the approval of the Division of Fairs and Expositions in the Department of Food and Agriculture, on the basis of 34 percent money from the

account and 66 percent matching money from cities, counties, special districts, or other units of government or from any source other than the account. Matching funds may be in the form of cash or any other form acceptable to the district. If the matching funds are in a form other than cash, they shall be approved by the Assistant Director of Food and Agriculture in charge of the Division of Fairs and Expositions prior to expenditure.

(c) Any earnings in the account, from inception, shall be transferred to the 51st District Agricultural Association on a pro rata basis as funds are paid out of the account, in 5 percent increments, corresponding to the percentage paid out pursuant to subdivision (b).

SEC. 2. Section 19632.6 is added to the Business and Professions Code, to read:

19632.6. (a) If the moneys provided for in subdivision (b) of Section 19632.5, including matching funds, are less than the total amount of funds determined as proper for the acquisition and development of a fairgrounds site in the study carried out pursuant to subdivision (a) of Section 1 of Chapter 647 of the Statutes of 1980, commencing on June 30, 1992, and on June 30th annually thereafter, the Controller shall apportion for the fiscal year ending on that date, until that difference is eliminated, 1 percent of the revenues paid to the state, which exceed the revenues paid to the state during the 1983–84 fiscal year, under Article 4 (commencing with Section 6870) from tide and submerged lands and deposit that amount in the special account in the Fair and Exposition Fund created by subdivision (a) of Section 19632.5 for expenditure pursuant to that section.

(b) The funds appropriated and allocated in this section are subject to reappropriation or allocation in any fiscal year by the Budget Act for that year; and if the Budget Act for any fiscal year reappropriates or reallocates the funds provided for in this section, the appropriation and allocation in this act shall be inoperative for that fiscal year.

SEC. 3. Section 6817 of the Public Resources Code is amended to read:

6817. (a) The Controller shall annually as of June 30th of each calendar year apportion for the fiscal year ending on that date to each city or county having within its boundaries ungranted tide and submerged lands or other tide and submerged lands granted to it by the state in which the state has reserved the rights to the mineral deposits contained therein, 1 percent of the revenues paid to the state under Article 4 (commencing with Section 6870) from those tide and submerged lands which are within the limits of the particular county or city, except that the total amount apportioned to each city or county in each year shall not exceed one hundred thousand dollars ($100,000) per mile, or fraction of a mile, of ocean frontage within, and owned or operated as a park by that city or county and leased by, the State Lands Commission for the

production of oil, gas, and other hydrocarbons, and only in those cases where the ocean frontage is available to the public free of charge for recreational purposes. However, this limitation on the amount which may be apportioned to each city or county in each year shall not apply to revenues from leases within the limits of the particular county or city which exceed the revenues paid to the state during the 1983–84 fiscal year. Any city which is fronted, in whole or in part, by a state oil and gas lease shall be qualified to receive an apportionment under this section based on the formula contained in this section. For purposes of this section, tide and submerged lands within the limits of a city shall not be deemed to be within the boundaries of a county except in the case of a city and county. The State Lands Commission shall at the time of remitting revenues to the State Treasury received under Article 4 (commencing with Section 6870) report to the Controller the total amount of the revenue paid from the tide and submerged lands to the state shown with respect to each city or county to which that amount is applicable. The apportionment for any given fiscal year shall be based upon the physical facts with respect to each city or county existing on June 30th of the next preceding fiscal year. The report of the State Lands Commission and the apportionments of the Controller shall be final.

(b) The amounts paid to cities and counties shall be deposited in a special tide and submerged lands fund established by the cities or counties, to be held in trust and to be expended only for the promotion and accommodation of commerce, navigation, and fisheries, for the protection of the lands within the boundaries of the cities and counties, for the promotion, accommodation, establishment, improvement, operation, and maintenance of public recreational beaches and coastline for the benefit of all the people of the state, and for the mitigation of any adverse environmental impact caused by exploration for hydrocarbons on state tide and submerged lands within city or county boundaries or caused by production or transportation of hydrocarbons produced on these tide and submerged lands.

(c) The Legislature hereby finds and declares that the purposes specified in subdivision (b) constitute matters of statewide interest and that the expenditure of funds for those purposes will benefit all of the people of the state.

This section shall be operative with respect to all revenues received in the State Treasury on and after October 1, 1963.

CHAPTER 1554

An act to amend Section 54238.3 of the Government Code, relating to surplus residential property.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 54238.3 of the Government Code is amended to read:

54238.3. (a) This article shall apply only to surplus residential properties which were acquired for a state project, for which at least 20 dwelling units were acquired and owned by the state on January 1, 1980, or on the date the properties were declared to be surplus, whichever date occurs later. For the purpose of this section, a freeway route and its interchanges shall be considered one state project. Except for State Highway Route 7 in Los Angeles County, this article shall not apply to freeway routes rescinded on or after January 1, 1984.

(b) Any person who is displaced from any dwelling located on such residential property that is also located within the right-of-way of a freeway route or its interchanges for which the property was declared surplus on or after January 1, 1984, and who occupied that dwelling for at least 90 days prior to the date the property was declared surplus, shall be eligible to receive the relocation advisory assistance provided by Section 7261, the relocation benefits provided by paragraph (1) of subdivision (a) or subdivision (b) of Section 7262, the payments authorized by subdivision (b) or (c) of Section 7264, and the right for review of decision as provided by Section 7266 if the person is forced to relocate from the dwelling, as a direct result of the state agency's disposal of the excess real property, within 90 days of the recordation of the deed from the state agency to a new owner.

(c) Whenever a state surplus residential property disposal project, as described in subdivision (b), includes 50 or more dwelling units, a Relocation Liaison shall be appointed by the Secretary of the Business, Transportation and Housing Agency. The term of the appointment shall be of sufficient duration for the Relocation Liaison to fulfill the assignment, not to exceed 180 days, and shall begin on the date that the property is declared to be surplus. The Relocation Liaison shall have the following assigned duties and responsibilities:

(1) Meet with the eligible persons and explain to them the benefits defined in subdivision (b).

(2) In conjunction with the state agency, assist in obtaining replacement housing for eligible persons.

(3) Assist eligible persons in completing and processing claims for benefits.

The state agency which is disposing of the surplus residential property shall be responsible for underwriting all reasonable costs as determined by the secretary associated with the operation of the Relocation Liaison's office necessary to perform all duties assigned to it.

CHAPTER 1555

An act to repeal Sections 170, 170a, and 170.1 of, and to add Sections 170, 170.1, 170.2, 170.3, 170.4, and 170.5 to, the Code of Civil Procedure, relating to disqualification of judges.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 170 of the Code of Civil Procedure is repealed.

SEC. 2. Section 170 is added to the Code of Civil Procedure, to read:

170. A judge has a duty to decide any proceeding in which he or she is not disqualified.

SEC. 3. Section 170a of the Code of Civil Procedure is repealed.

SEC. 4. Section 170.1 of the Code of Civil Procedure is repealed.

SEC. 5. Section 170.1 is added to the Code of Civil Procedure, to read:

170.1. (a) A judge shall be disqualified if any one or more of the following is true:

(1) The judge has personal knowledge of disputed evidentiary facts concerning the proceeding.

A judge shall be deemed to have personal knowledge within the meaning of this paragraph if the judge, or the spouse of the judge, or a person within the third degree of relationship to either of them, or the spouse of such a person is to the judge's knowledge likely to be a material witness in the proceeding.

(2) The judge served as a lawyer in the proceeding, or in any other proceeding involving the same issues he or she served as a lawyer for any party in the present proceeding or gave advice to any party in the present proceeding upon any matter involved in the action or proceeding.

A judge shall be deemed to have served as a lawyer in the proceeding if within the past two years:

(A) A party to the proceeding or an officer, director, or trustee of a party was a client of the judge when the judge was in the private practice of law or a client of a lawyer with whom the judge was associated in the private practice of law; or

(B) A lawyer in the proceeding was associated in the private

practice of law with the judge.

A judge who served as a lawyer for or officer of a public agency which is a party to the proceeding shall be deemed to have served as a lawyer in the proceeding if he or she personally advised or in any way represented the public agency concerning the factual or legal issues in the proceeding.

(3) The judge has a financial interest in the subject matter in a proceeding or in a party to the proceeding.

A judge shall be deemed to have a financial interest within the meaning of this paragraph if:

(A) A spouse or minor child living in the household has a financial interest; or

(B) The judge or the spouse of the judge is a fiduciary who has a financial interest.

A judge has a duty to make reasonable efforts to inform himself or herself about his or her personal and fiduciary interests and those of his or her spouse and the personal financial interests of children living in the household.

(4) The judge, or the spouse of the judge, or a person within the third degree of relationship to either of them, or the spouse of such a person is a party to the proceeding or an officer, director, or trustee of a party.

(5) A lawyer or a spouse of a lawyer in the proceeding is the spouse, former spouse, child, sibling, or parent of the judge or the judge's spouse or if such a person is associated in the private practice of law with a lawyer in the proceeding.

(6) For any reason (A) the judge believes his or her recusal would further the interests of justice, (B) the judge believes there is a substantial doubt as to his or her capacity to be impartial, or (C) a person aware of the facts might reasonably entertain a doubt that the judge would be able to be impartial. Bias or prejudice towards a lawyer in the proceeding may be grounds for disqualification.

(7) By reason of permanent or temporary physical impairment, the judge is unable to properly perceive the evidence or is unable to properly conduct the proceeding.

(b) A judge before whom a proceeding was tried or heard shall be disqualified from participating in any appellate review of that proceeding.

(c) At the request of a party or on its own motion an appellate court shall consider whether in the interests of justice it should direct that further proceedings be heard before a trial judge other than the judge whose judgment or order was reviewed by the appellate court.

SEC. 6. Section 170.2 is added to the Code of Civil Procedure, to read:

170.2. It shall not be grounds for disqualification that the judge:

(a) Is or is not a member of a racial, ethnic, religious, sexual or similar group and the proceeding involves the rights of such a group.

(b) Has in any capacity expressed a view on a legal or factual issue presented in the proceeding, except as provided in paragraph (2) of

subdivision (a) of, or subdivision (b) or (c) of, Section 170.1.

(c) Has as a lawyer or public official participated in the drafting of laws or in the effort to pass or defeat laws, the meaning, effect or application of which is in issue in the proceeding unless the judge believes that his or her prior involvement was so well known as to raise a reasonable doubt in the public mind as to his or her capacity to be impartial.

SEC. 7. Section 170.3 is added to the Code of Civil Procedure, to read:

170.3. (a) (1) Whenever a judge determines himself or herself to be disqualified, the judge shall notify the presiding judge of the court of his or her recusal and shall not further participate in the proceeding, except as provided in Section 170.4, unless his or her disqualification is waived by the parties as provided in subdivision (b).

(2) If the judge disqualifying himself or herself is the only judge or the presiding judge of the court, the notification shall be sent to the person having authority to assign another judge to replace the disqualified judge.

(b) (1) A judge who determines himself or herself to be disqualified after disclosing the basis for his or her disqualification on the record may ask the parties and their attorneys whether they wish to waive the disqualification. A waiver of disqualification shall recite the basis for the disqualification, and is effective only when signed by all parties and their attorneys and filed in the record.

(2) The judge shall not seek to induce a waiver and shall avoid any effort to discover which lawyers or parties favored or opposed a waiver of disqualification.

(3) In the event that grounds for disqualification are first learned of or arise after the judge has made one or more rulings in a proceeding but before the judge has completed judicial action in a proceeding, the judge shall, unless the disqualification be waived, disqualify himself or herself, but in the absence of good cause the rulings he or she has made up to that time shall not be set aside by the judge who replaces the disqualified judge.

(c) (1) If a judge who should disqualify himself or herself refuses or fails to do so, any party may file with the clerk a written verified statement objecting to the hearing or trial before the judge and setting forth the facts constituting the grounds for disqualification of the judge. The statement shall be presented at the earliest practicable opportunity after discovery of the facts constituting the ground for disqualification. Copies of the statement shall be served on each party or his or her attorney who has appeared and shall be personally served on the judge alleged to be disqualified, or on his or her clerk, provided that the judge is present in the courthouse or in chambers.

(2) Without conceding his or her disqualification, a judge whose impartiality has been challenged by the filing of a written statement may request any other judge agreed upon by the parties to sit and

act in his or her place.

(3) Within 10 days after the filing or service, whichever is later, the judge may file a consent to disqualification in which case the judge shall notify the presiding judge or the person authorized to appoint a replacement of his or her recusal as provided in subdivision (a), or the judge may file a written verified answer admitting or denying any or all of the allegations contained in the party's statement and setting forth any additional facts material or relevant to the question of disqualification. The clerk shall forthwith transmit a copy of the judge's answer to each party or his or her attorney who has appeared in the action.

(4) A judge who fails to file a consent or answer within the time allowed shall be deemed to have consented to his or her disqualification and the clerk shall notify the presiding judge or person authorized to appoint a replacement of the recusal as provided in subdivision (a).

(5) No judge who refuses to recuse himself or herself shall pass upon his or her own disqualification or upon the sufficiency in law, fact, or otherwise, of the statement of disqualification filed by a party. In every such case, the question of disqualification shall be heard and determined by another judge agreed upon by all the parties who have appeared or, in the event they are unable to agree within five days of notification of the judge's answer, by a judge selected by the chairperson of the Judicial Council, or if the chairperson is unable to act, the vice-chairperson. The clerk shall notify the executive officer of the Judicial Council of the need for a selection. The selection shall be made as expeditiously as possible. No challenge pursuant to subdivision (c) of Section 170.3 or Section 170.6 may be made against the judge selected to decide the question of disqualification.

(6) The judge deciding the question of disqualification may decide the question on the basis of the statement of disqualification and answer and such written arguments as the judge requests, or the judge may set the matter for hearing as promptly as practicable. If a hearing is ordered, the judge shall permit the parties and the judge alleged to be disqualified to argue the question of disqualification and shall for good cause shown hear evidence on any disputed issue of fact. If the judge deciding the question of disqualification determines that the judge is disqualified, the judge hearing the question shall notify the presiding judge or the person having authority to appoint a replacement of the disqualified judge as provided in subdivision (a) of Section 170.3.

(d) The determination of the question of the disqualification of a judge is not an appealable order and may be reviewed only by a writ of mandate from the appropriate court of appeal sought within 10 days of notice to the parties of the decision and only by the parties to the proceeding.

SEC. 8. Section 170.4 is added to the Code of Civil Procedure, to read:

170.4. (a) A disqualified judge, notwithstanding his or her

disqualification may do any of the following:

(1) Take any action or issue any order necessary to maintain the jurisdiction of the court pending the assignment of a judge not disqualified.

(2) Request any other judge agreed upon by the parties to sit and act in his or her place.

(3) Hear and determine purely default matters.

(4) Issue an order for possession prior to judgment in eminent domain proceedings.

(5) Set proceedings for trial or hearing.

(6) Conduct settlement conferences.

(b) Notwithstanding paragraph (5) of subdivision (c) of Section 170.3, if a statement of disqualification is untimely filed or if on its face it discloses no legal grounds for disqualification, the trial judge against whom it was filed may order it stricken.

(c) (1) If a statement of disqualification is filed after a trial or hearing has commenced by the start of voir dire, by the swearing of the first witness or by the submission of a motion for decision, the judge whose impartiality has been questioned may order the trial or hearing to continue, notwithstanding the filing of the statement of disqualification. The issue of disqualification shall be referred to another judge for decision as provided in subdivision (a) of Section 170.3, and if it is determined that the judge is disqualified, all orders and rulings of the judge found to be disqualified made after the filing of the statement shall be vacated.

(2) For the purposes of this subdivision, if (A) a proceeding is filed in a single judge court or has been assigned to a single judge for comprehensive disposition, and (B) the proceeding has been set for trial or hearing 30 or more days in advance before a judge whose name was known at the time, the trial or hearing shall be deemed to have commenced 10 days prior to the date scheduled for trial or hearing as to any grounds for disqualification known before that time.

(3) A party may file no more than one statement of disqualification against a judge unless facts suggesting new grounds for disqualification are first learned of or arise after the first statement of disqualification was filed. Repetitive statements of disqualification not alleging facts suggesting new grounds for disqualification shall be stricken by the judge against whom they are filed.

(d) Except as provided in this section, a disqualified judge shall have no power to act in any proceeding after his or her disqualification or after the filing of a statement of disqualification until the question of his or her disqualification has been determined.

SEC. 9. Section 170.5 is added to the Code of Civil Procedure, to read:

170.5. For the purposes of Sections 170 to 170.5, inclusive, the following definitions apply:

(a) "Judge" means judges of the justice, municipal, and superior

courts, and court commissioners and referees.

(b) "Financial interest" means ownership of more than a 1 percent legal or equitable interest in a party, or a legal or equitable interest in a party of a fair market value in excess of one thousand five hundred dollars ($1,500), or a relationship as director, advisor or other active participant in the affairs of a party, except as follows:

(1) Ownership in a mutual or common investment fund that holds securities is not a "financial interest" in those securities unless the judge participates in the management of the fund.

(2) An office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization.

(3) The proprietary interest of a policyholder in a mutual insurance company, or a depositor in a mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest.

(c) "Officer of a public agency" does not include a Member of the Legislature or a state or local agency official acting in a legislative capacity.

(d) The third degree of relationship shall be calculated according to the civil law system.

(e) "Private practice of law" includes a fee for service, retainer, or salaried representation of private clients or public agencies, but excludes lawyers as full-time employees of public agencies or lawyers working exclusively for legal aid offices, public defender offices, or similar nonprofit entities whose clientele is by law restricted to the indigent.

(f) "Proceeding" means the action, case, cause, motion, or special proceeding to be tried or heard by the judge.

(g) "Fiduciary" includes any executor, trustee, guardian, or administrator.

SEC. 10. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 11. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1556

An act to add Section 15463 to the Government Code, relating to county health facilities, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 15463 is added to the Government Code, to read:

15463. (a) There is hereby created in the State Treasury, the County Health Facilities Sinking Fund which, notwithstanding Section 13340, is continuously appropriated for the purposes of this section.

(b) The Controller shall transfer to the fund the unexpended balances from appropriations pursuant to Sections 16702 and 16703 of the Welfare and Institutions Code from the 1981–82, 1982–83, and 1983–84 fiscal years and ten million dollars ($10,000,000) from the funds subject to allocation pursuant to Section 6217 of the Public Resources Code in the 1984–85 fiscal year, after the allocations have been made pursuant to that section.

(c) Moneys in the fund shall be available to fund 50 percent of the amortization costs of projects approved by the authority, for which the county has agreed to provide 50 percent of the amortization cost.

(d) Notwithstanding any other provision of law, interest earned on the investment of moneys in the fund shall be credited to the fund and shall be available to amortize loans for facilities defined in paragraph (8) of subdivision (d) of Section 15432.

(e) Any unexpended balances in the appropriations made in Section 16702 or 16703 of the Welfare and Institutions Code on June 30, 1984, and each June 30 thereafter shall be deposited into the County Health Facilities Sinking Fund for the purpose of financing projects in accordance with this section.

CHAPTER 1557

An act to amend Sections 15046, 15051, and 15071 of the Health and Safety Code, relating to seismic safety.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 15046 of the Health and Safety Code is amended to read:

15046. The application shall be accompanied by a filing fee in an amount which the statewide office determines will cover the costs of administering this chapter. The fee shall not exceed 2 percent of the estimated construction cost. The fee shall be established in accordance with applicable procedures established in Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

The minimum fee in any case shall be two hundred fifty dollars ($250).

The statewide office shall issue an annual permit upon submission, pursuant to Section 15042, of an application for a project only if its estimated construction cost is twenty-five thousand dollars ($25,000) or less. The cost of this annual permit shall be two hundred fifty dollars ($250) and this fee shall constitute the filing fee and shall cover all projects undertaken for a particular skilled nursing or intermediate care facility by the applicant up to an estimated construction cost of twenty-five thousand dollars ($25,000) during the state fiscal year in which the annual permit is issued. The fees for projects over the twenty-five thousand dollars ($25,000) limit shall be assessed at a rate established by the statewide office in regulation. However, the rate established by the statewide office shall not exceed 1.5 percent of the estimated construction cost for projects of skilled nursing and intermediate care facilities, as defined in subdivision (c), (d), (e), or (g) of Section 1250.

If the actual construction cost exceeds the estimated construction cost by more than 5 percent, a further fee shall be paid to the statewide office, based on the above schedule and computed on the amount by which the actual cost exceeds the amount of the estimated cost.

SEC. 2. Section 15051 of the Health and Safety Code is amended to read:

15051. (a) The hospital governing board or authority shall provide for and require competent and adequate inspection during construction or alteration by an inspector satisfactory to the architect or structural engineer, or both, and the statewide office. Except as otherwise provided in subdivision (b), the inspector shall act under the direction of the architect or structural engineer, or both, and be responsible to the board or authority. Nothing in this section shall be construed to prohibit any licensed architect, structural engineer, mechanical engineer, electrical engineer, or any facility maintenance personnel, if approved by the statewide office, from performing the duties of an inspector.

(b) Where alterations or repairs are to be conducted under the supervision of a professional engineer pursuant to Section 15048, the inspector need only be satisfactory to the statewide office and to the professional engineer, and the inspector shall act under the direction of the professional engineer.

(c) In approving any inspector, the statewide office shall consult with the Department of General Services.

(d) The statewide office shall make an inspection of the hospital buildings and of the work of construction or alteration as in its judgment is necessary or proper for the enforcement of this chapter and the protection of the safety of the public. Structural, fire, and panic safety elements and details shall be inspected by the statewide office through its contracts with the Department of General Services and the office of the State Fire Marshal.

SEC. 3. Section 15071 of the Health and Safety Code is amended to read:

15071. New construction of buildings specified in paragraphs (2) and (3) of subdivision (b) of Section 15026 shall conform to the provisions of the latest edition of Title 24 of the California Administrative Code. The statewide office, with the advice of the Building Safety Board, shall prepare regulations for the independent review of these structures.

The statewide office may also exempt from the plan review process those projects undertaken by an applicant for a hospital building which the statewide office determines do not materially alter the mechanical, electrical, architectural, or structural integrity of the facility. The statewide office shall adopt regulations for the implementation of exemptions made pursuant to this paragraph.

The Legislature recognizes the relative safety of single-story, wood frame construction for use in housing patients requiring skilled nursing and intermediate care services and it is, therefore, the intent of the Legislature to provide for reasonable flexibility in seismic safety standards for these structures.

SEC. 4. Section 15071 of the Health and Safety Code is amended to read:

15071. New construction of buildings specified in paragraphs (2) and (3) of subdivision (b) of Section 15026 shall conform to the provisions of the latest edition of Title 24 of the California Administrative Code. The statewide office, with the advice of the Building Safety Board, shall adopt and administer regulations for the independent review of these structures.

The statewide office may also exempt from the plan review process those projects undertaken by an applicant for a hospital building which the statewide office determines do not materially alter the mechanical, electrical, architectural, or structural integrity of the facility. The statewide office shall adopt regulations for the implementation of exemptions made pursuant to this paragraph.

The Legislature recognizes the relative safety of single-story, wood frame, and light steel frame construction for use in housing patients requiring skilled nursing and intermediate care services and it is, therefore, the intent of the Legislature to provide for reasonable flexibility in seismic safety standards for these structures.

SEC. 5. It is the intent of the Legislature, if this bill and Assembly Bill 3993 are both chaptered and become effective January 1, 1985, both bills amend Section 15071 of the Health and Safety Code, and this bill is chaptered after Assembly Bill 3993, that the amendments

to Section 15071 proposed by both bills be given effect and incorporated in Section 15071 in the form set forth in Section 4 of this act. Therefore, Section 4 of this act shall become operative only if this bill and Assembly Bill 3993 are both chaptered and become effective January 1, 1985, both amend Section 15071, and this bill is chaptered after Assembly Bill 3993, in which case Section 3 of this act shall not become operative.

CHAPTER 1558

An act to add Chapter 11 (commencing with Section 2805) to Division 2 of the Public Resources Code, relating to earthquakes, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Chapter 11 (commencing with Section 2805) is added to Division 2 of the Public Resources Code, to read:

CHAPTER 11. EARTHQUAKE EDUCATION

2805. This chapter shall be known and may be cited as the California Earthquake Education Act of 1984.

2806. The Legislature hereby finds and declares as follows:

(a) California has recently experienced and will continue to experience in the foreseeable future damaging earthquakes of moderate to great magnitude. Efforts have been needed to increase the awareness of earthquake hazards through education so that future losses of life, injuries, loss of property, and social disruption will be minimized when those events occur.

(b) Because of a lack of any state or local earthquake safety education program, it has been necessary for the state to assume leadership through the policy and guidance of the Seismic Safety Commission to develop and test earthquake safety programs which provide informational material to schools and the general public for minimizing potential disruption and loss of life.

(c) Since the pilot earthquake safety education and preparedness programs developed under the California Earthquake Education Act of 1981 have been tested, their effectiveness analyzed, and they have been deemed successful by the Seismic Safety Commission, the Legislature believes that it is appropriate, as stated by the Earthquake Education Act of 1981, that those programs be distributed and implemented throughout the earthquake-prone areas of the state.

(d) It is necessary that funds be appropriated to the Seismic Safety

Commission from the General Fund for the purpose of expanding the earthquake safety program for statewide implementation over the next three years which, when completed, will constitute for the first time in history, a comprehensive, statewide self-supporting earthquake safety education program.

2807. (a) There is hereby established a project for the implementation of a statewide program of earthquake safety education and preparedness entitled the California Earthquake Education Project (CALEEP). The Seismic Safety Commission may contract with the University of California to carry out the project. The project shall focus on identifying state and local leadership interested in using the CALEEP materials, disseminating those materials, and utilizing the materials.

(b) The project shall develop a relationship with the State Department of Education, interested teacher's education computer centers statewide, and interested counties and school districts.

2808. The objectives of the project are all of the following:

(a) Developing public awareness regarding the causes of earthquakes, the forces and effects of earthquakes, and the need for school and community action in coping with earthquake hazards.

(b) Promoting understanding of the impact of earthquakes on natural features and man-made structures.

(c) Motivating the public to establish measures prior, during, and after earthquakes to ensure their public safety.

(d) Disseminating, as widely as possible throughout the state, the program and project materials.

SEC. 2. Notwithstanding subdivision (g) of Section 21191 of the Public Resources Code, the sum of five hundred twenty-five thousand dollars ($525,000) is hereby appropriated from the General Fund to the Seismic Safety Commission for the purposes of Chapter 11 (commencing with Section 2805) of Division 2 of the Public Resources Code, to be allocated as follows:

(a) One hundred seventy-five thousand dollars ($175,000) for expenditure during the 1984–85 fiscal year.

(b) One hundred seventy-five thousand dollars ($175,000) for expenditure during the 1985–86 fiscal year.

(c) One hundred seventy-five thousand dollars ($175,000) for expenditure during the 1986–87 fiscal year.

CHAPTER 1559

An act to amend Sections 46013.7 and 48342 of, and to add Section 48342.5 to, the Education Code, relating to schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. The Legislature hereby recognizes that poor school attendance is the most frequently identified characteristic of pupils who are potential dropouts. The Legislature also recognizes that, statistically, pupils leaving school prior to graduation face higher unemployment rates and lower wages and earnings than other workers, are more likely to require public assistance, and are more susceptible to engaging in criminal activity.

It is the intent of the Legislature to encourage school districts and county offices of education to develop and implement strategies and activities which emphasize the importance of school attendance and which encourage pupils to regularly attend school. It is also the intent of the Legislature to encourage school districts to use an attendance accounting procedure which promotes accountability and the most efficient and effective use of public funds.

SEC. 2. Section 46013.7 of the Education Code is amended to read:

46013.7. The Superintendent of Public Instruction shall make the provisions of this section and Section 46013 available to 25 elementary school districts, 25 unified school districts, and 10 high school districts for the 1980–81 school year through the 1984–85 school year and shall not require these districts to keep parallel attendance accounting and reporting procedures as required under existing laws otherwise applicable. School districts desiring to utilize this section and Section 46013 shall apply to the Superintendent of Public Instruction for approval. In approving applications, the Superintendent of Public Instruction shall ensure that no more than 2½ percent of the statewide average daily attendance shall be subject to the provisions of this section and Section 46013. After the 1982–83 fiscal year, no school district shall be eligible to receive a revenue limit increase pursuant to Section 46013.

SEC. 3. Section 48342 of the Education Code is amended to read:

48342. The governing board of each school district shall annually disclose to the public actual pupil attendance rates for each school in the district.

SEC. 4. Section 48342.5 is added to the Education Code, to read:

48342.5. School districts and county offices of education shall annually certify to the Superintendent of Public Instruction that they have complied with the requirements of Section 48342 regarding the annual disclosure of actual pupil attendance rates.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not

result in additional net costs.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to authorize the Superintendent of Public Instruction to extend attendance accounting and reporting programs established under Section 46013.7 of the Education Code through the 1984–85 school year, it is necessary that this act take effect immediately.

CHAPTER 1560

An act to add Section 1463.04 to the Penal Code, and to add Chapter 1.27 (commencing with Section 5091.01) to Division 5 of, and to repeal Section 5091.16 of, the Public Resources Code, relating to parks and recreation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 1463.04 is added to the Penal Code, to read:

1463.04. Notwithstanding Section 1463, out of the moneys deposited with the county treasurer pursuant to Section 1463, there shall be transferred once a month into the State Treasury to the credit of the Winter Recreation Fund an amount equal to 50 percent of all fines and forfeitures collected during the preceding month upon conviction or upon the forfeiture of bail from any person of any violation of Section 5091.15 of the Public Resources Code, and an amount equal to the remaining 50 percent shall be transferred to the county general fund and deposited in a special account which shall be used exclusively to pay for the cost of furthering the purposes of the California SNO-PARK Permit Program, including, but not limited to, the snow removal, maintenance, and development of designated parking areas.

SEC. 2. Chapter 1.27 (commencing with Section 5091.01) is added to Division 5 of the Public Resources Code, to read:

CHAPTER 1.27. CALIFORNIA SNO-PARK PERMIT PROGRAM

Article 1. General Provisions

5091.01. (a) The Legislature finds that as the popularity of winter recreation has steadily grown, so too has the problem of insufficient parking areas for participants.

(b) The Legislature hereby declares that adequate parking

facilities for winter recreation are essential to ensure safety and well-being of the states' winter recreationists.

(c) Accordingly, in furtherance of the California Outdoor Recreation Plan, it is the intent of the Legislature to establish the California SNO-PARK Permit Program, whereby winter recreationists may purchase a windshield sticker that will allow them to park in any of the roadside parking areas to be established and plowed for this purpose.

5091.02. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter.

(a) "Authorized vendor" means a retail commercial enterprise, authorized by the department to sell SNO-PARK permits established by this chapter.

(b) "Department" means the Department of Parks and Recreation.

(c) "Fund" means the Winter Recreation Fund.

(d) "Designated parking area" means an area located, constructed, maintained, and signed pursuant to this chapter.

(e) "Winter recreation" means any recreational activity principally dependent upon snow-covered ground, including, but not limited to, cross-country skiing, snowshoeing, sledding, ice fishing, snow camping, dogsledding, and snowmobiling.

Article 2. Designation of Parking Areas

5091.10. (a) The State Park and Recreation Commission shall hold at least two public hearings, one in the northern portion of the state and one in the southern portion of the state, to seek proposals from individuals, winter recreation user groups, the department, and other public agencies for parking areas to be designated under this chapter. The commission shall make its initial recommendations to the department with respect to designated parking areas to be included within the program within 90 days of the effective date of this chapter. The director may appoint a committee of winter recreationists to advise him or her on the location of designated parking areas.

(b) The department shall, after consultation with the State Park and Recreation Commission, the Department of Transportation, the Department of the California Highway Patrol, the appropriate boards of supervisors, and any local public or private persons owning lands adjacent to each site, designate winter recreation parking locations throughout the state and include the sites as an element of the California outdoor recreation plan. The location and design of any proposed site adjacent to or directly impacting on a state highway shall be reviewed and approved by the Department of Transportation. The location and design of any proposed site adjacent to or directly impacting on a county road shall be reviewed and approved by the appropriate board of supervisors.

(c) Using funds appropriated from the Winter Recreation Fund

and allocated pursuant to paragraph (1) of subdivision (b) of Section 5091.25, the Department of Transportation shall provide for the removal of snow accumulating on designated parking areas according to priorities established by the Department of Transportation in consultation with the department. The removal of snow from the roadway of state highways shall always take precedence over the removal of snow from designated parking areas.

(d) Using funds appropriated from the Winter Recreation Fund and allocated pursuant to paragraph (3) of subdivision (b) of Section 5091.25, the department may make grants to counties for the removal of snow accumulating on designated parking areas. In no event shall the removal of snow on designated parking areas become a county responsibility, except by agreement with the appropriate board of supervisors.

Article 3. SNO-PARK Permit Program

5091.15. (a) Except as provided in this section, no person shall, from November 1 of any year to May 30 of the next year, park a vehicle in a designated parking area unless the vehicle displays a parking permit issued by the department. Overnight camping in a vehicle parked in a designated parking area is prohibited.

(b) No parking permit shall be required under this section for a vehicle owned and operated by the United States, another state or political subdivision thereof, or by this state or by a city, county, district, or political subdivision thereof.

(c) The fee for the issuance of a parking permit under this chapter shall be as follows:

(1) Not more than two dollars ($2) for a permit that is valid for a period of one day.

(2) Not more than ten dollars ($10) for a permit that is valid for a period of one year, beginning each November 1.

(d) A person who violates this section is guilty of an infraction punishable by a fine of seventy-five dollars ($75). Unless the peace officer issuing the citation witnesses the parking of the vehicle, a rebuttable presumption exists that a vehicle parked in violation of this section was parked by the registered owner of the vehicle. If the parking of the vehicle is witnessed by the peace officer, the operator of the vehicle is in violation of this section.

5091.16. In order to allow sufficient time to acquaint the public with the requirements of this chapter, if any person cited in accordance with Section 5091.15 presents, by mail or in person, proof of issue of a SNO-PARK permit on or before the date on which he or she promised to appear, the court shall dismiss the violation for failure to display a SNO-PARK parking permit when required.

This section shall become inoperative on May 30, 1987, and, as of January 1, 1988, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1988, deletes or extends the dates on which it becomes inoperative and is repealed.

Article 4. Permits

5091.20. (a) The department shall print the permits required by this chapter and shall supervise the sale of the permits throughout the state.

(b) The department shall either distribute and sell the permits directly or contract with vendors according to rules and regulations established by the department. The authorized vendors shall be bonded in accordance with the rules and regulations and shall receive a stipulated commission for each permit sold. The department may solicit the participation of qualified retail commercial enterprises engaged in the sale or rental of winter recreation equipment to act as authorized vendors of the permits.

Article 5. Revenues

5091.25. (a) Proceeds from the sale of SNO-PARK parking permits shall be paid to the State Treasury to the credit of the Winter Recreation Fund, which is hereby created.

(b) The moneys in the Winter Recreation Fund shall be allocated, when appropriated, as follows:

(1) An amount equal to the actual and necessary costs incurred in the removal of snow from designated parking areas shall be paid to the Department of Transportation.

(2) An amount not to exceed 5 percent of total funds available shall be expended for administrative costs directly incurred through the implementation of this chapter.

(3) The balance of the funds shall be expended for the acquisition, lease, development, and maintenace of additional designated parking areas, for sanitation facilities, trail-head marking, and other facilities designed to promote the safety and well-being of persons engaged in winter recreation, and for grants to counties for the actual and necessary costs incurred in the removal of snow from designated parking areas.

5091.26. Eminent domain shall not be exercised to acquire any interest in property for a designated parking area.

5091.27. The department may adopt rules and regulations necessary to implement and enforce this chapter.

SEC. 3. The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund to the Department of Parks and Recreation as a loan for administrative and startup costs to implement Section 2 of this act. The loan shall be repaid, together with interest, to the General Fund from the Winter Recreation Fund within five years from the date on which the loan is made. The rate of interest shall be equivalent to the average rate earned by investments in the Pooled Money Investment Account during the period this loan is outstanding.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the

California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 6. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow sufficient time for the Department of Parks and Recreation and other public agencies to implement the California SNO-PARK Permit Program for the winter of 1985, it is necessary that this act take effect immediately.

CHAPTER 1561

An act to add Chapter 14.5 (commencing with Section 13650) to Division 5 of the Business and Professions Code, relating to service stations.

[Approved by Governor September 29, 1984 Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Chapter 14.5 (commencing with Section 13650) is added to Division 5 of the Business and Professions Code, to read:

CHAPTER 14.5. SERVICE STATIONS

13650. "Service station," as used in this chapter, means any establishment which offers for sale or sells gasoline or other motor vehicle fuel to the public.

13651. On and after January 1, 1985, every service station in this state shall provide, during operating hours, water, compressed air, and a gauge for measuring air pressure, to the public for use in servicing any passenger vehicle, as defined in Section 465 of the

Vehicle Code, or any commercial vehicle, as defined in Section 260 of the Vehicle Code, with an unladen weight of 6000 pounds or less.

13652. (a) Any person who intentionally violates any provision of this chapter or any regulation promulgated pursuant thereto is guilty of an infraction, and, upon conviction, shall be punished by a fine not to exceed fifty dollars ($50) for each day that the person violates the provision or regulation.

(b) The failure of an owner or manager of a service station to have adequate water and air facilities available for use by the public, for five consecutive working days, constitutes a rebuttable presumption affecting the burden of proof that the owner or manager has intentionally violated the provisions of this chapter.

(c) Notwithstanding any other provision of this chapter, no person shall be guilty of the infraction specified in subdivision (a) if that person, within seven days after receiving notification from the city attorney, district attorney, or Attorney General of a violation of any provision of this chapter, makes whatever changes are necessary to comply with the requirements of this chapter.

13653. Notwithstanding any other provision of law, this chapter may be enforced by the city attorney, district attorney, or Attorney General.

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

CHAPTER 1562

An act to amend Sections 12020, 12054, 12071, 12072, 12076, 12096, 12231, 12250, 12305, 12306, 12424, and 12435 of the Penal Code, and to amend Sections 5357, 8101, 8103, and 8104 of the Welfare and Institutions Code, relating to firearms, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 12020 of the Penal Code is amended to read:

12020. (a) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any firearm which is not immediately recognizable as a

firearm, any ammunition which contains or consists of any flechette dart, any bullet containing or carrying an explosive agent, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, nunchaku, sandclub, sandbag, sawed-off shotgun, or metal knuckles, or who carries concealed upon his person any explosive substance, other than fixed ammunition or who carries concealed upon his person any dirk or dagger, is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison. A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

(b) Subdivision (a) shall not apply to any of the following:

(1) The manufacture, possession, transportation or use, with blank cartridges, of sawed-off shotguns solely as props for motion picture film or television program production when such is authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) of this chapter and is not in violation of federal law.

(2) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(3) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(4) Any antique firearm. For purposes of this section, the term "antique firearm" means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(5) Tracer ammunition manufactured for use in shotguns.

(6) Any firearm or ammunition which is a curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess such items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code from possessing such firearms or ammunition who obtains title to such items by bequest or intestate succession may retain title for not more than one year, but actual possession of such items at any time shall be punishable pursuant to Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code. Within such year the person shall transfer title to such firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(7) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess such weapons pursuant to the Gun Control Act of 1968 (P.L. 90-618; 82 Stat. 1213), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code from possessing these weapons who obtains title to these weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of these weapons at any time shall be punishable pursuant to Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code. Within that year the person shall transfer title to the weapons by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a). The exemption provided in this subdivision does not apply to pen guns.

(c) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale or offers or exposes for sale, or who gives, lends, or possesses any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison.

(d) (1) As used in this section a "sawed-off shotgun" means any firearm (including any revolver) manufactured, designed, or converted to fire shotgun ammunition having a barrel or barrels of less than 18 inches in length, or a rifle having a barrel or barrels of less than 16 inches in length, or any weapon made from a rifle or shotgun (whether by manufacture, alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches.

(2) As used in this section, a "nunchaku" means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

(3) As used in this section a "wallet gun" means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if such firearm may be fired while mounted or enclosed in such case.

(4) As used in this section a "cane gun" means any firearm mounted or enclosed in a stick, staff, rod, crutch or similar device, designed to be or capable of being used as an aid in walking, if such firearm may be fired while mounted or enclosed therein.

(5) As used in this section, a "flechette dart" means a dart, capable of being fired from a firearm, which measures approximately one inch in length, with tail fins which take up five-sixteenths inch of the body.

(e) Knives carried in sheaths which are worn openly suspended from the waist of the wearer are not concealed within the meaning of this section.

SEC. 1.1. Section 12020 of the Penal Code is amended to read:

12020. (a) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any firearm which is not immediately recognizable as a firearm, any ammunition which contains or consists of any flechette dart, any bullet containing or carrying an explosive agent, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, nunchaku, sandclub, sandbag, sawed-off shotgun, or metal knuckles, or who carries concealed upon his or her person any explosive substance, other than fixed ammunition or who carries concealed upon his or her person any dirk or dagger, is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison. A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

(b) Subdivision (a) does not apply to any of the following:

(1) The manufacture, possession, transportation or use, with blank cartridges, of sawed-off shotguns solely as props for motion picture film or television program production when authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) of this chapter and not in violation of federal law.

(2) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(3) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(4) Any antique firearm. For purposes of this section, "antique firearm" means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(5) Tracer ammunition manufactured for use in shotguns.

(6) Any firearm or ammunition which is a curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess such items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code from

possessing such firearms or ammunition who obtains title to such items by bequest or intestate succession may retain title for not more than one year, but actual possession of such items at any time shall be punishable pursuant to Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code. Within such year the person shall transfer title to such firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(7) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code from possessing these weapons who obtains title to these weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of these weapons at any time is punishable pursuant to Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code. Within that year the person shall transfer title to the weapons by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a). The exemption provided in this subdivision does not apply to pen guns.

(c) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison.

(d) (1) As used in this section, a "sawed-off shotgun" means any firearm (including any revolver) manufactured, designed, or converted to fire shotgun ammunition having a barrel or barrels of less than 18 inches in length, or a rifle having a barrel or barrels of less than 16 inches in length, or any weapon made from a rifle or shotgun (whether by manufacture, alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches.

(2) As used in this section, a "nunchaku" means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

(3) As used in this section, a "wallet gun" means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if such firearm may be fired while mounted or enclosed in such case.

(4) As used in this section, a "cane gun" means any firearm mounted or enclosed in a stick, staff, rod, crutch or similar device, designed to be or capable of being used as an aid in walking, if such firearm may be fired while mounted or enclosed therein.

(5) As used in this section, a "flechette dart" means a dart, capable of being fired from a firearm, which measures approximately one inch in length, with tail fins which take up five-sixteenths of an inch of the body.

(6) As used in this section, "metal knuckles" means any device or instrument made wholly or partially of metal which is worn for purposes of offense or defense in or on the hand and which either protects the wearer's hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow. The metal contained in the device may help support the hand or fist, provide a shield to protect it, or consist of projections or studs which would contact the individual receiving a blow.

(e) Knives carried in sheaths which are worn openly suspended from the waist of the wearer are not concealed within the meaning of this section.

SEC. 2. Section 12054 of the Penal Code is amended to read:

12054. Each applicant for a new license or for the renewal of a license shall pay at the time of filing his application a fee determined by the Department of Justice not to exceed the application processing costs of the Department of Justice for the direct costs of furnishing the report required by Section 12052. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget. The officer receiving the application and the fee shall transmit the fee, with the fingerprints if required, to the Department of Justice. The licensing authority of any city or county may charge an additional fee, not to exceed three dollars ($3), for processing any such application, and shall transmit such additional fee, if any, to the city or county treasury.

SEC. 3. Section 12071 of the Penal Code is amended to read:

12071. (a) The duly constituted licensing authorities of any city, county, or city and county shall accept applications for, and may grant licenses permitting the licensee to sell at retail within the city, county, or city and county, pistols, revolvers, and other firearms capable of being concealed upon the person. If a license is granted, it shall be in the form prescribed by the Attorney General, effective for not more than one year from the date of issue, and be subject to the following conditions, for breach of any of which the license shall be subject to forfeiture.

(1) The business shall be carried on only in the building designated in the license.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No pistol or revolver shall be delivered:

(A) Within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped.

(C) Unless the purchaser either is personally known to the seller or shall present clear evidence of his or her identity.

(D) Whenever the dealer is notified by the Department of Justice that a purchaser is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol or revolver, or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(b) As used in this article, "clear evidence of his or her identity" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity of the purchaser.

SEC. 4. Section 12072 of the Penal Code is amended to read:

12072. No person, corporation or dealer shall sell, deliver, or otherwise transfer any pistol, revolver, or other firearm capable of being concealed upon the person to any person whom he has cause to believe to be within any of the classes prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from owning or possessing these firearms, nor shall any dealer sell, deliver or transfer any firearm capable of being concealed upon the person, to any person under the age of 21 years. In no event shall any such firearm be delivered to the purchaser within 15 days of the application for the purchase thereof, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later and when delivered such firearm shall be securely wrapped and shall be unloaded. Where neither party to the transaction holds a dealer's license, no person shall sell or otherwise transfer any such firearm to any other person within this state who is not personally known to the vendor. Any violation of the provisions of this section is a misdemeanor.

SEC. 5. Section 12076 of the Penal Code is amended to read:

12076. The purchaser of any firearm capable of being concealed upon the person shall be required to present clear evidence of his or

her identity, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing an incorrect birth date, and any person violating any provision of this section is guilty of a misdemeanor.

(b) Two copies of the original sheet of the register shall, on the date of sale, be placed in the mail, postage prepaid, and properly addressed to the Department of Justice at Sacramento. The third copy of the original shall be mailed, postage prepaid, to the chief of police, or other head of the police department, of the city or county wherein the sale is made. Where the sale is made in a district where there is no municipal police department, the third copy of the original sheet shall be mailed to the sheriff of the county wherein the sale is made.

(c) If the department determines that the purchaser is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer of that fact.

If the department determines that the copies of the register submitted to it pursuant to subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the pistol, revolver, or other firearm to be purchased, or if any fee required pursuant to subdivision (d) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (d) or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the pistol, revolver, or other firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(d) The Department of Justice may charge the dealer a fee, not to exceed the actual processing costs of the department, sufficient to reimburse the department for the cost of furnishing this information. All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section.

SEC. 3. Section 5357 of the Welfare and Institutions Code is amended to read:

5357. All conservators of the estate shall have the general powers specified in Chapter 6 (commencing with Section 2400) of Part 4 of

Division 4 of the Probate Code and shall have such additional powers specified in Article 11 (commencing with Section 2590) of Chapter 6 of Part 4 of Division 4 of the Probate Code as the court may designate. The report shall set forth which, if any, of the additional powers it recommends. The report shall also recommend for or against the imposition of each of the following disabilities on the proposed conservatee:

(a) The privilege of possessing a license to operate a motor vehicle. If the report recommends against this right and if the court follows the recommendation, the agency providing conservatorship investigation shall, upon the appointment of the conservator, so notify the Department of Motor Vehicles.

(b) The right to enter into contracts. The officer may recommend against the person having the right to enter specified types of transactions or transactions in excess of specified money amounts.

(c) The disqualification of the person from voting pursuant to Section 707.5 of the Elections Code.

(d) The right to refuse or consent to treatment related specifically to the conservatee's being gravely disabled. The conservatee shall retain all rights specified in Section 5325.

(e) The right to refuse or consent to other medical treatment unrelated to remedying or preventing the recurrence of the conservatee's being gravely disabled which is necessary for the treatment of an existing or continuing medical condition. The report shall include an evaluation of such condition and the current treatment for such condition, if any.

(f) The disqualification of the person from possessing a firearm pursuant to subdivision (e) of Section 8103.

SEC. 6. Section 12096 of the Penal Code is amended to read:

12096. Applications for permits shall be filed in writing, signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address and a full description of the use to which the sawed-off shotguns are to be put.

Applications and permits shall be uniform throughout the state on forms prescribed by the Department of Justice.

Each applicant for a permit shall pay at the time of filing his or her application a fee determined by the Department of Justice not to exceed the application processing costs of the Department of Justice. A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee not to exceed the application processing costs of the Department of Justice. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget.

SEC. 7. Section 12231 of the Penal Code is amended to read:

12231. Applications for permits shall be filed in writing, signed by

the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address and a full description of the use to which the firearms are to be put.

Applications and permits shall be uniform throughout the state on forms prescribed by the Department of Justice.

Each applicant for a permit shall pay at the time of filing his or her application a fee determined by the Department of Justice not to exceed the application processing costs of the Department of Justice. A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee not to exceed the application processing costs of the Department of Justice. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget.

SEC. 8. Section 12250 of the Penal Code is amended to read:

12250. (a) The Department of Justice may grant licenses in a form to be prescribed by it effective for not more than one year from the date of issuance, to permit the sale at the place specified in the license of machineguns subject to all of the following conditions, upon breach of any of which the license shall be revoked:

1. The business shall be carried on only in the place designated in the license.

2. The license or a certified copy thereof must be displayed on the premises in a place where it may easily be read.

3. No machinegun shall be delivered to any person not authorized to receive the same under the provisions of this chapter.

4. A complete record must be kept of sales made under the authority of the license, showing the name and address of the purchaser, the descriptions and serial numbers of the weapons purchased, the number and date of issue of the purchaser's permit, if any, and the signature of the purchaser or purchasing agent. This record shall be open to the inspection of any peace officer or other person designated by the Attorney General.

(b) Applications for licenses shall be filed in writing, signed by the applicant if an individual or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address and a full description of the use to which the firearms are to be put.

Applications and licenses shall be uniform throughout the state on forms prescribed by the Department of Justice.

Each applicant for a license shall pay at the time of filing his or her application a fee determined by the Department of Justice not to exceed the application processing costs of the Department of Justice. A license granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a license renewal fee not

to exceed the application processing costs of the Department of Justice. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget.

SEC. 9. Section 12305 of the Penal Code is amended to read:

12305. (a) Every dealer, manufacturer, importer, and exporter of any destructive device, or any motion picture or television studio using destructive devices in the conduct of its business, shall obtain a permit for the conduct of such business from the Department of Justice.

(b) Applications for permits shall be filed in writing, signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address and a full description of the use to which the destructive devices are to be put.

Applications and permits shall be uniform throughout the state on forms prescribed by the Department of Justice.

Each applicant for a permit shall pay at the time of filing his or her application a fee not to exceed the application processing costs of the Department of Justice. A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee not to exceed the application processing costs of the Department of Justice.

SEC. 10. Section 12306 of the Penal Code is amended to read:

12306. (a) Any person, firm or corporation, other than those included in Section 12305, shall obtain a permit from the Department of Justice before possessing or transporting any destructive device.

Applications for permits shall be filed in writing, signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address and a full description of the use to which the destructive devices are to be put.

Applications and permits shall be uniform throughout the state on forms prescribed by the Department of Justice.

Each applicant for a permit shall pay at the time of filing his or her application a fee determined by the Department of Justice not to exceed the application processing costs of the Department of Justice. A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee not to exceed the application processing costs of the Department of Justice. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget.

SEC. 11. Section 12424 of the Penal Code is amended to read:

12424. Applications for permits shall be filed in writing, signed by

the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address and a full description of the place or vehicle in which the tear gas or tear gas weapons are to be transported, kept, installed, or maintained.

If the tear gas or tear gas weapons are to be used in connection with, or to constitute, a protective system, the application shall also contain the name of the person who is to install the protective system.

Applications and permits shall be uniform throughout the state upon forms prescribed by the Department of Justice.

Each applicant for a permit shall pay at the time of filing his or her application a fee determined by the Department of Justice not to exceed the application processing costs of the Department of Justice. A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee not to exceed the application processing costs of the Department of Justice. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget.

SEC. 12. Section 12435 of the Penal Code is amended to read:

12435. The Department of Justice may grant licenses in a form to be prescribed by it effective for not more than one year from the date of issuance, to permit the sale at retail of tear gas or tear gas weapons, and to permit the installation and maintenance of protective systems involving the use of tear gas or tear gas weapons subject to all of the following conditions upon breach of any of which the license shall be subject to forfeiture:

(a) Under a sales license for the sale of tear gas or tear gas weapons issued by the department, the business shall be carried on only in the building designated in the license, except that self-defense products may be sold at the place of instruction.

(b) The license or certified copy thereof shall be displayed at each sales premises in a place where it may easily be read.

(c) No tear gas or tear gas weapon shall be delivered to any person not authorized to possess or transport the same under the provisions of this chapter. No protective system involving the use of tear gas or tear gas weapons shall be installed, nor shall supplies be sold for the maintenance of such system, unless the licensee has personal knowledge of the existence of a valid permit for the operation and maintenance of the system.

(d) A permanent complete sales register shall be kept of self-defense tear gas and tear gas weapons sales made under the authority of the license, showing all of the following:

(1) The purchaser's name, date of birth, and address; the purchaser's identification card number and date of issue; the purchaser's response to questions pertaining to his or her eligibility

to purchase tear gas or tear gas weapons pursuant to the requirements of subdivision (a) of Section 12403.7.

(2) The quantity and description, including serial numbers of articles purchased.

(3) The business name, address, and telephone number; the business retail tear gas sales license number; and the name and signature of the person making the sales.

(4) The date and time of sale.

(e) This sales register shall be open to the inspection of any peace officer or other person designated by the Attorney General.

(f) The original copy of the sales register shall be retained as part of the vendor's permanent record of sales. The duplicate copy of the sales register of each transaction shall, on the date of sale, be placed in the mail, postage prepaid, and properly addressed to the chief of police or sheriff who has jurisdiction over the purchaser's place of residence.

(g) The sales register requirements of this section shall not apply to wholesale or retail dealers in their normal business intercourse with other wholesale or retail dealers.

(h) The sales register required for each tear gas weapon sale shall be prepared by and obtained from the Department of General Services and shall be furnished by the Department of General Services to the licensed vendor on application at a cost to be determined by the Department of General Services for each 100 leaves in duplicate, one original and one duplicate for the making of one carbon copy. The original and duplicate copy shall differ in color, and shall be in a form prescribed by the Department of Justice.

The Department of General Services upon issuing a register shall forward to the Department of Justice the name and business address of the vendor together with the series and sheet numbers of the register. The register shall not be transferable. If the vendor moves his business to a different location he shall notify the Department of Justice of such fact in writing within 48 hours.

(i) Each applicant for the tear gas sales license described in this section shall pay at the time of filing his or her application a fee determined by the Department of Justice not to exceed the application processing costs of the Department of Justice. A license granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a license renewal fee not to exceed the application processing costs of the Department of Justice. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget.

SEC. 13. Section 8101 of the Welfare and Institutions Code is amended to read:

8101. Any person who shall knowingly supply, sell, give, or allow possession or control of any firearm or deadly weapon to any person

described in Section 8100 or 8103 shall be punishable by imprisonment in a state prison, or in a county jail for a period of not exceeding one year, by a fine of not exceeding one thousand dollars ($1,000), or by both such fine and imprisonment. For purposes of this section, "deadly weapon" means any weapon, the possession or concealed carrying of which is prohibited by Section 12020 of the Penal Code.

SEC. 14. Section 8103 of the Welfare and Institutions Code is amended to read:

8103. (a) (1) No person who after October 1, 1955, has been adjudicated by a court of any state to be a danger to others as a result of mental disorder or mental illness, or who has been adjudicated to be a mentally disordered sex offender, shall have in his or her possession, custody, or control any firearm unless there has been issued to such person a certificate by the court of adjudication upon release from treatment or at a later date stating that the person may possess a firearm without endangering others, and such person has not, subsequent to the issuance of such certificate, again been adjudicated by a court to be a danger to others as a result of a mental disorder or mental illness.

(2) The court shall immediately notify the Department of Justice of the court order finding the individual to be a person described in paragraph (1). The court shall also notify the Department of Justice of any certificate issued as described in paragraph (1).

(b) (1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of murder, mayhem, a violation of Section 207 or 209 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery in which the victim suffers great bodily injury, a violation of Section 447a of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of subdivision 2 or 3 of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310 of the Penal Code, or of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, or a violation of the law of any other state or the United States which includes all the elements of any of the above felonies as defined under California law, shall have in his or her possession or under his or her custody or control any firearm.

(2) The court shall immediately notify the Department of Justice of the court order finding the person to be a person described in paragraph (1).

(c) (1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of any crime other than those

described in subdivision (b) shall have in his or her possession, custody, or control any firearm unless the court of commitment has found the person to have recovered sanity, pursuant to Section 1026.2 of the Penal Code or the law of any other state or the United States.

(2) The court shall immediately notify the Department of Justice of the court order finding the person to be a person described in paragraph (1). The court shall also notify the Department of Justice when it finds that the person has recovered his or her sanity.

(d) (1) No person found by a court to be mentally incompetent to stand trial, pursuant to Section 1370 or 1370.1 of the Penal Code or the law of any other state or the United States, shall have in his or her possession, custody, or control any firearm, unless there has been a finding with respect to such person of restoration to competence to stand trial by the committing court, pursuant to Section 1372 of the Penal Code or the law of any other state or the United States.

(2) The court shall immediately notify the Department of Justice of the court order finding the person to be mentally incompetent as described in paragraph (1). The court shall also notify the Department of Justice when it finds that the person has recovered his or her competence.

(e) (1) No person who has been placed under conservatorship by a court, pursuant to Section 5350 or the law of any other state or the United States, because the person is gravely disabled as a result of a mental disorder or impairment by chronic alcoholism shall have in his or her possession, custody, or control any firearm while under such conservatorship if, at the time the conservatorship was ordered or thereafter, the court which imposed the conservatorship found that possession of a firearm by the person would present a danger to the safety of the person or to others. Upon placing any person under conservatorship, and prohibiting firearm possession by the person the court shall notify the person of this prohibition.

(2) The court shall immediately notify the Department of Justice of the court order placing the person under conservatorship and prohibiting firearm possession by the person as described in paragraph (1) The notice shall include the date the conservatorship was imposed and the date the conservatorship is to be terminated. If the conservatorship is subsequently terminated before the date listed in the notice to the Department of Justice or the court subsequently finds that possession of a firearm by the person would no longer present a danger to the safety of the person or others, the court shall immediately notify the Department of Justice.

(3) All information provided to the Department of Justice pursuant to paragraph (2) shall be kept confidential, separate, and apart from all other records maintained by the department, and shall be used only to determine eligibility to purchase or possess firearms. Any person who knowingly furnishes any such information for any other purpose is guilty of a misdemeanor. All such information concerning any person shall be destroyed upon receipt by the

Department of Justice of notice of the termination of conservatorship as to that person pursuant to paragraph (2).

(f) Every person who possesses or has under his or her custody or control any firearm in violation of this section is guilty of a felony which is punishable by imprisonment in the state prison, or in the county jail for not more than one year, and which is subject to subdivision (b) of Section 17 of the Penal Code.

SEC. 15. Section 8104 of the Welfare and Institutions Code is amended to read:

8104. The State Department of Mental Health shall make available to the Department of Justice those records which the State Department of Mental Health has in its possession which are necessary to identify persons who come within the provisions of Section 8100 or 8103. These records shall be made available to the Department of Justice upon request. The Department of Justice shall make such requests only with respect to its duties with regard to applications for permits for explosives as defined in Section 12000 of the Health and Safety Code, concealable weapons as defined in Section 12001 of the Penal Code, machineguns as defined in Section 12200 of the Penal Code, and destructive devices as defined in Section 12301 of the Penal Code. Such records shall not be furnished or made available to any person unless the department determines that disclosure of any information in such records is necessary to carry out its duties with respect to applications for permits for explosives, destructive devices, concealable weapons, and machineguns.

SEC. 16. The sum of fifteen thousand dollars ($15,000) is hereby appropriated from the General Fund to the Controller for allocation and disbursement in the 1984–85 fiscal year, in accordance with Section 2231 of the Revenue and Taxation Code, to local agencies and school districts to reimburse them for costs mandated by the state and incurred by them pursuant to this act.

SEC. 17. Section 1.1 of this bill incorporates amendments to Section 12020 of the Penal Code proposed by both this bill and SB 2248. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Sections 12020 of the Penal Code, and (3) this bill is enacted after SB 2248, in which case Section 1 of this bill shall not become operative.

CHAPTER 1563

An act to amend Section 8217 of the Corporations Code, to amend Section 12182.5 of the Government Code, to amend Sections 17053, 23605, and 24343.5 of, to add and repeal Section 17149 of, and to repeal Section 17223 of, the Revenue and Taxation Code, relating to ridesharing, to take effect immediately, tax levy.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 8217 of the Corporations Code is amended to read:

8217. (a) No corporation formed under this part for the sole purpose of operating a single ridesharing vanpool vehicle designed for transporting at least seven persons, including the driver, under an arrangement in which ridesharing is incidental to another purpose of the driver shall be subject to the payment of any fee under provisions of the Government Code for any filing required by this part.

(b) For purposes of this section, "ridesharing" shall have the meaning specified in Section 522 of the Vehicle Code.

SEC. 2. Section 12182.5 of the Government Code is amended to read:

12182.5. (a) No filing fee established in this article shall be imposed upon a nonprofit mutual benefit corporation having as its sole purpose the operation of a single ridesharing vanpool vehicle designed for transporting at least seven persons, including the driver, under an arrangement in which ridesharing is incidental to another purpose of the driver.

(b) For purposes of this section, "ridesharing" shall have the meaning specified in Section 522 of the Vehicle Code.

SEC. 3. Section 17053 of the Revenue and Taxation Code is amended to read:

17053. (a) There shall be allowed as a credit against the amount of "net tax" (as defined in Section 17039), an amount equal to the amount determined in subdivisions (b) and (c).

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

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

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

(4) If a ridesharing vehicle purchased for which a credit is provided in paragraph (1) is disposed of, or is no longer used as part of an employer-sponsored ridesharing incentive program, within three years of its acquisition, that portion of the credit provided in paragraph (1) which represents the pro rata share of that remaining

three-year period shall be added to the employer's tax liability in the taxable year of that disposition or nonuse. The basis of any such vehicle shall be increased by an amount equal to that amount added to the employer's tax liability.

(c) (1) The amount of the credit allowed by this subdivision shall be 20 percent of the cost incurred by an employer for leasing or contracting company shuttle buses, company commuter buses or vans, or commuter motor-pool vehicles which are provided as part of an employer-sponsored ridesharing incentive program. This credit shall be based on the total payments to the lessor or vehicle provider during the life of the lease or contract, excluding insurance, maintenance, fuel, drivers' salaries, or other operating expenses. The lessor or vehicle provider of vehicles specified in this subdivision shall not be eligible for this credit.

(2) The credit provided in paragraph (1) shall be claimed in the state income tax return for the taxable year in which the ridesharing vehicles are first leased or contracted for and placed in service. However, with respect to ridesharing vehicles first leased or contracted for prior to the 1984 taxable year, the credit provided in paragraph (1) shall be claimed in the state income tax return for the 1984 taxable year based on the total payments to the lessor or vehicle provider during the 1984 taxable year and the total payments to be made during the remaining life of the lease or contract.

(3) If a ridesharing vehicle leased or contracted for which a credit is provided in paragraph (1) is disposed of, or is no longer used as part of an employer-sponsored ridesharing incentive program, prior to the expiration date of the lease or contract, that portion of the credit provided in paragraph (1) which represents the pro rata share of the remaining life of that lease or contract shall be added to the employer's tax liability in the taxable year of that disposition or nonuse.

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

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

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

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

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

(g) For purposes of this section:

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

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

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

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

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

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

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

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

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

(A) Has a seating capacity of at least seven adults, including the driver.

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

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

(ii) Interfacing with public transportation facilities.

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

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

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

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

(A) Has a seating capacity of at least seven adults, including the

driver.

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

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

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

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

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

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

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

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

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

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

SEC. 4. Section 17149 is added to the Revenue and Taxation Code, to read:

17149. (a) Gross income does not include compensation or any other benefit, except salary or wages, received by an employee from an employer for the actual costs of participation in any ridesharing arrangement in California specified in subdivision (b).

(b) For purposes of this section, compensation or any other benefit received for the actual costs of participation in a ridesharing arrangement in California includes compensation or other benefit received for:

(1) Commuting in a third-party vanpool.

(2) Commuting in a private commuter bus.

(3) A monthly transit pass for use by the employee or his or her dependents, other than transit passes for use by elementary and secondary school students who are dependents of the employee.

(4) Commuting in a subscription taxipool.

(c) For purposes of this section:

(1) "Third-party vanpool" means a vanpool that is not administered and operated by an employer or his or her employees, but is administered and operated by an outside organization, including a government agency, which makes vehicles and other

equipment and services available for use by employers and their employees.

(2) "Vanpool" means seven or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry seven to 15 adults, including the driver.

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

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

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

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

(7) "Carpool" means two or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry less than seven adults, including the driver.

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

(d) The exclusion provided by this section is in addition to any exclusion provided pursuant to Section 124 of the Internal Revenue Code.

(e) This section shall apply only to taxable years 1981 to 1985, inclusive. This section shall remain in effect only until December 31, 1985, and as of that date is repealed unless a later enacted statute which is chaptered before December 31, 1985, deletes or extends that date.

SEC. 5. Section 17223 of the Revenue and Taxation Code is repealed.

SEC. 6. Section 23605 of the Revenue and Taxation Code is amended to read:

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

(b) (1) The amount of the credit allowed by this subdivision shall be 20 percent of the cost incurred by an employer for the purchase of company shuttle buses, company commuter buses or vans, or company motor-pool vehicles which are provided as part of an

employer-sponsored ridesharing incentive program for employees conducted principally in this state.

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

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

(4) If a ridesharing vehicle purchased for which a credit is provided in paragraph (1) is disposed of, or is no longer used as part of an employer-sponsored ridesharing incentive program, within three years of its acquisition, that portion of the credit provided in paragraph (1) which represents the pro rata share of that remaining three-year period shall be added to the employer's tax liability in the income year of that disposition or nonuse. The basis of any such vehicle shall be increased by an amount equal to that amount added to the employer's tax liability.

(c) (1) The amount of the credit allowed by this subdivision shall be 20 percent of the cost incurred by an employer for leasing or contracting company shuttle buses, company commuter buses or vans, or commuter motor-pool vehicles which are provided as part of an employer-sponsored ridesharing incentive program. This credit shall be based on the total payments to the lessor or vehicle provider during the life of the lease or contract, excluding insurance, maintenance, fuel, drivers' salaries, or other operating expenses. The lessor or vehicle provider of vehicles specified in this subdivision is not eligible for this credit.

(2) The credit provided in paragraph (1) shall be claimed in the state income tax return for the income year in which the ridesharing vehicles are leased or contracted for and placed in service. However, with respect to ridesharing vehicles first leased or contracted for prior to the 1984 income year, the credit provided in paragraph (1) shall be claimed in the state income tax return for the 1984 income year based on the total payments to the lessor or vehicle provider during the 1984 income year and the total payments to be made during the remaining life of the lease or contract.

(3) If a ridesharing vehicle leased or contracted for which a credit is provided in paragraph (1) is disposed of, or is no longer used as part of an employer-sponsored ridesharing incentive program, prior to the expiration date of the lease or contract, that portion of the credit provided in paragraph (1) which represents the pro rata share of the remaining life of that lease or contract shall be added to the employer's tax liability in the income year of that disposition or nonuse.

(d) The credits allowed by subdivisions (b) and (c) shall not apply to the cost of purchasing, leasing, or contracting company shuttle buses, company commuter buses or vans, or company motor-pool vehicles which would otherwise be required as part of the

employer's business activities in the absence of an employer-sponsored ridesharing incentive program.

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

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

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

(g) For purposes of this section:

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

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

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

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

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

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

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

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

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

(A) Has a seating capacity of at least seven adults, including the driver.

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

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

(ii) Interfacing with public transportation facilities.

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

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

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

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

(A) Has a seating capacity of at least seven adults, including the driver.

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

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

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

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

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

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

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

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

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

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

SEC. 7. Section 24343.5 of the Revenue and Taxation Code is amended to read:

24343.5. (a) Except as otherwise provided in this section, there shall be allowed to an employer a deduction as an ordinary and

necessary expense paid or incurred during the income year in carrying on any trade or business those expenses involved in each of the following activities:

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

(2) Subsidizing employees commuting in private commuter buses.

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

(4) Subsidizing employees commuting in subscription taxipools.

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

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

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

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

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

(b) For purposes of this section:

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

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

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

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

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

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

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

(8) "Carpool" means two or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry less than seven adults, including the driver.

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

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

SEC. 7.5. It is the intent of the Legislature that the moneys generated by the repeal of Section 17223 of the Revenue and Taxation Code be utilized for the purposes of augmenting support for the tax credits provided by Sections 17053 and 23065 of the Revenue and Taxation Code.

SEC. 8. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1564

An act to amend Sections 2671, 2675, 2677, and 2678 of, and to add Sections 2675.5, 2677.5, and 2680.5 to, the Labor Code, relating to garment manufacturing, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 2671 of the Labor Code is amended to read:

2671. As used in this part:

(a) "Person" means any individual, partnership, corporation, or association, and includes, but is not limited to, employers, manufacturers, jobbers, wholesalers, contractors, and subcontractors.

"Person" does not include any person who manufactures garments by himself or herself, without the assistance of a contractor, employee, or others; any person who engages solely in that part of the business engaged solely in cleaning, alteration, or tailoring; any person who engages in the activities herein regulated as an employee with wages as his or her sole compensation; or any person as provided by regulation.

(b) "Garment manufacturing" means sewing, cutting, making, processing, repairing, finishing, assembling, or otherwise preparing any garment or any article of wearing apparel or accessories designed or intended to be worn by any individual, including, but not limited to, clothing, hats, gloves, handbags, hosiery, ties, scarfs, and belts, for sale or resale by any person or any persons contracting to have the above operations performed.

(c) "Commissioner" means the Labor Commissioner.

SEC. 2. Section 2675 of the Labor Code is amended to read:

2675. (a) For purposes of enforcing this part and Sections 204, 209, 212, 221, 222, 222.5, 223, 226, 227, and 227.5, Chapter 2 (commencing with Section 300) and Article 2 (commencing with Section 400) of Chapter 3 of Part 1 of this division, Sections 1195.5, 1197, 1197.5, and 1198, Division 4 (commencing with Section 3200) and Division 4.7 (commencing with Section 6200), every person engaged in the business of garment manufacturing shall register with the commissioner.

The commissioner shall not permit any person to register, nor shall the commissioner allow any person to renew registration, until all the following conditions are satisfied:

(1) The person has executed a written application therefor in a form prescribed by the commissioner, subscribed and sworn by the person, and containing:

(A) A statement by the person of all facts required by the commissioner concerning the applicant's character, competency, responsibility, and the manner and method by which the person proposes to engage in the business of garment manufacturing if the registration is issued.

(B) The names and addresses of all persons, except bona fide employees on stated salaries, financially interested, either as partners, associates, or profit sharers, in the proposed business of

garment manufacturing together with the amount of their respective interests, except that in the case of a publicly traded corporation a listing of principal officers shall suffice.

(2) The commissioner, after investigation, is satisfied as to the character, competency, and responsibility of the person.

(3) In the case of a person who has been cited and penalized within the prior three years under this part, the person has deposited or has on file a surety bond in the sum and form that the commissioner deems sufficient and adequate to insure future compliance, not to exceed five thousand dollars ($5,000). The bond shall be payable to the people of California and shall be for the benefit of any employee of a registrant damaged by the registrant's failure to pay wages and fringe benefits, or for the benefit of any employee of a registrant damaged by a violation of Section 2677.5.

(4) The person has documented that a current workers' compensation insurance policy is in effect for the employees of the person seeking registration.

(5) The person has paid an initial registration fee to the commissioner not to exceed one hundred fifty dollars ($150), or in the case of renewal of registration, a fee not to exceed one hundred dollars ($100).

(b) At the time a certificate of registration is originally issued or renewed, the commissioner shall provide related and supplemental information regarding business administration and applicable labor laws. Such related and supplemental information, as much as reasonably possible, shall be provided in the primary language of the garment manufacturer. The information shall include all subject matter on which persons seeking registration are examined pursuant to subdivision (c), and shall be available to persons seeking registration prior to taking this examination.

(c) Effective January 1, 1985, persons seeking registration under this section for the first time shall, in an oral or written examination, or both, demonstrate a degree of knowledge of the pertinent laws and administrative regulations concerning garment manufacturing as the commissioner deems necessary for the safety and protection of garment workers. The commissioner shall charge a fee to persons taking the examination which is sufficient to pay for costs incurred in administering the examination.

(d) A person seeking renewal of registration may, at the discretion of the commissioner, be required to take the examination specified in subdivision (c) if, in the preceding year, the registrant has been found to be in violation of subdivision (a) or any of the sections enumerated in that subdivision.

(e) Proof of registration shall be by an official Division of Labor Standards Enforcement registration form. Every person, as set forth in Section 2671, shall post the registration form where it may be read by employees during the workday.

SEC. 3. Section 2675.5 is added to the Labor Code, to read:

2675.5. (a) The commissioner shall deposit twenty-five dollars

($25) of each registrant's annual registration fee, required pursuant to paragraph (5) of subdivision (a) of Section 2675, into one separate account. Funds from the separate account shall be disbursed by the commissioner only to persons determined by the commissioner to have been damaged by any registrant, when the damage exceeds the limits of the registrant's bond. Any disbursed funds subsequently recovered by the commissioner shall be returned to the separate account.

(b) The remainder of each registrants' annual registration fee not deposited into the special account pursuant to subdivision (a) shall be applied to costs incurred by the commissioner in administering the provisions of Section 2675 and this section.

SEC. 4. Section 2677 of the Labor Code is amended to read:

2677. Any person engaged in the business of garment manufacturing who contracts with any other person similarly engaged who has not registered with the commissioner or does not have a valid bond on file with the commissioner, as required by Section 2675, shall be deemed an employer, and shall be jointly liable with such other person for any violation of Section 2675 and the sections enumerated in that section.

SEC. 5. Section 2677.5 is added to the Labor Code, to read:

2677.5. It shall be illegal for any person registered pursuant to this chapter and contracting with another registrant to engage in any business practice which causes or is likely to cause a violation of this chapter.

SEC. 6. Section 2678 of the Labor Code is amended to read:

2678. (a) A penalty, as provided in subdivision (c), may be imposed against any person for any of the following:

(1) Failure to comply within 15 days of any judgment due for violation of any labor laws applicable to garment industry workers.

(2) Failure to comply with the registration requirements of this part.

(3) Failure to comply with Section 2673 or any section enumerated in Section 2675.

(b) The order imposing the penalty may be served personally or by registered mail in accordance with subdivision (c) of Section 11505 of the Government Code. The order shall be in writing and shall describe the nature of the violation, including reference to the statutory provisions, rules, or regulations alleged to have been violated.

(c) The penalties shall be a civil penalty of one hundred dollars ($100) for each affected employee for the initial violation and a civil penalty of two hundred dollars ($200) for each affected employee for the second or subsequent violation.

SEC. 7. Section 2680.5 is added to the Labor Code, to read:

2680.5. The commissioner shall have the authority to investigate and mediate pricing and quality disputes arising out of written contracts between manufacturers and contractors in the garment industry.

SEC. 8. The sum of three hundred thousand dollars ($300,000) is hereby appropriated from the General Fund to the Labor Commissioner according to the following schedule:

(a) One hundred thousand dollars ($100,000) for enforcement of the garment industry labor laws during the 1984–85 fiscal year.

(b) Two hundred thousand dollars ($200,000) for enforcement of the garment industry labor laws during the 1985–86 fiscal year.

SEC. 9. It is the intent of the Legislature that any increased revenues resulting from increased civil penalties pursuant to this act shall be used for increased enforcement by the Labor Commissioner of the labor laws in the garment industry.

SEC. 10. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1565

An act to amend Section 25934.4 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 25934.4 of the Revenue and Taxation Code is amended to read:

25934.4. (a) A penalty shall be imposed for substantial understatement of liability for bank and corporation franchise tax or corporation income tax assessed under this part.

(b) Except as otherwise provided in this section, the penalty shall be determined in accordance with the provisions of Section 6661 of the Internal Revenue Code.

(c) The provisions of Section 6661 (b) (3) of the Internal Revenue Code shall not be applicable.

(d) A penalty shall be imposed only if the understatement is attributable to a tax shelter (as defined by Section 6661 (b) (2) (C) (ii) of the Internal Revenue Code) the promotion of which would subject a person to penalties under Section 6700 of the Internal Revenue Code.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure uniformity in the imposition of tax penalties and reporting requirements, it is necessary for this act to take effect immediately.

CHAPTER 1566

An act to add Section 19807 to, the Welfare and Institutions Code, relating to independent living centers, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION. 1. Section 19807 is added to the Welfare and Institutions Code, to read:

19807. (a) For each fiscal year commencing with the 1984–85 fiscal year, an independent living center shall not be required to provide any matching funds through private contributions as a condition of receiving state funds except to acquire state incentive funds. An independent living center whose allocation of funds pursuant to this chapter, excluding state incentive funds, is less than one hundred fifty thousand dollars ($150,000) shall, to the extent funds are appropriated by the Legislature and allocated in accordance with regulations adopted by the department, receive , during the 1984–85 fiscal year, an amount of state funds pursuant to this section, in an amount equal to 50 percent of the difference between one hundred fifty thousand dollars ($150,000) and the independent living center's allocation under this chapter. During the 1985–86 fiscal year, and each fiscal year thereafter, each independent living center shall receive, to the extent funds are appropriated by the Legislature and allocated in accordance with regulations adopted by the department, except for state incentive funds, at least one hundred fifty thousand ($150,000) in funds allocated under this chapter.

(b) (1) In addition to funds received pursuant to subdivision (a), and subject to the limitations of subdivision (c), to the extent funds are appropriated by the Legislature, and allocated in accordance with regulations adopted by the department, each independent living center shall have the amount of its private contributions which, for any fiscal year, exceeds the amount of private contributions received by the independent living center during the 1982–83 fiscal year matched by state incentive funds on the basis of one dollar ($1) in state incentive funds for each one dollar ($1) received in private contributions.

(2) Available state incentive funds shall be allocated during each fiscal year based upon the private contributions received by the independent living center in the immediately preceding fiscal year.

(3) For the purpose of determining eligibility for state incentive funds, any independent living center that uses a fiscal year other than the state fiscal year may elect to use a different fiscal year so long as the closing date of the fiscal year so elected does not precede the closing date of the equivalent state fiscal year by more than 11 months.

(4) The amount of private contributions claimed by an independent living center for each fiscal year, including the 1982–83 fiscal year, shall be verified by the department by utilizing appropriate financial records including, but not limited to, independent audits. Audits may be performed by the department up to three years from the close of the fiscal year during which state incentive funds were received by the independent living center being audited.

(c) The maximum amount of incentive funds as defined in subdivision (d) that may be acquired by any independent living center in any single fiscal year shall be computed as follows:

(1) Each independent living center funded under Section 19803 shall be entitled to acquire state incentive funds as specified in subdivision (b) in an amount not to exceed the total available state incentive funds, divided by the number of independent living centers then funded under Section 19803.

(2) Any state incentive funds remaining after distribution under paragraph (1) may be acquired by any independent living center with remaining unmatched private contributions except that no such independent living center shall receive an amount greater than the total of the remaining incentive funds, divided by the number of independent living centers having remaining unmatched private contributions.

(3) State incentive funds not distributed to independent living centers under paragraph (1) or (2) shall not be allocated under Section 19803 nor retained by the department for distribution as state incentive funds in later fiscal years.

(d) For purposes of this section:

(1) "Private funds" does not include any funds originating from any entity of the federal, state, city, or county government or any political subdivision thereof.

(2) "State incentive funds" means state funds appropriated by the Legislature for purposes of this chapter, except those funds allocated by the department pursuant to Section 19803 and subdivision (a) of this section.

(e) Any funds allocated under this chapter to any independent living center, other than as part of the initial allocation for each fiscal year, shall be made by contract amendment. Any such contract amendment shall require the provision of services in addition to that required by the contract being amended. All such services required

by contract amendment shall not be performed prior to the date the contract amendment is approved by the state.

SEC. 2. In addition to the amount appropriated in the Budget Act to the Department of Rehabilitation for the purposes of funding independent living centers pursuant to Chapter 8 (commencing with Section 19800) of Part 2 of Division 10 of the Welfare and Institutions Code, there is hereby appropriated from the General Fund to the Department of Rehabilitation the sum of seven hundred fifty thousand dollars ($750,000) to provide funds for the 1984–85 fiscal year pursuant to Section 19807 of the Welfare and Institutions Code.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that the benefits of independent living center services provided by this act may be conferred upon the disabled in this state at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1567

An act to amend Section 27465 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 27465 of the Vehicle Code is amended to read:

27465. (a) No dealer or person holding a retail seller's permit shall sell, offer for sale, expose for sale, or install on a vehicle axle for use on a highway, a pneumatic tire when the tire has less than the tread depth specified in subdivision (b). This subdivision does not apply to any person who installs on a vehicle, as part of an emergency service rendered to a disabled vehicle upon a highway, a spare tire with which such disabled vehicle was equipped.

(b) No person shall use on a highway a pneumatic tire on a vehicle axle when the tire has less than the following tread depth, except when temporarily installed on a disabled vehicle as specified in subdivision (a):

(1) One thirty-second ($1/32$) of an inch tread depth in any two adjacent grooves at any location of the tire, except as provided in paragraphs (2) and (3).

(2) Four thirty-second ($4/32$) of an inch tread depth at all points in all major grooves on a tire on the steering axle of any motor vehicle

specified in Section 34500, and two thirty-second (2/32) of an inch tread depth at all points in all major grooves on all other tires on the axles of these vehicles.

(3) Six thirty-second (6/32) of an inch tread depth at all points in all major grooves on snow tires used in lieu of tire chains in posted chain control areas.

(c) The measurement of tread depth shall not be made where tie bars, humps, or fillets are located.

(d) The requirements of this section shall not apply to implements of husbandry.

(e) The department, if it determines that such action is appropriate and in keeping with reasonable safety requirements, may adopt regulations establishing more stringent tread depth requirements than those specified in this section for those vehicles defined in Sections 322 and 545, and may adopt regulations establishing tread depth requirements different from those specified in this section for those vehicles listed in Section 34500.

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

SEC. 3. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1568

An act to add Article 5 (commencing with Section 54690) to Chapter 9 of Part 29 of the Education Code, relating to schools, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984]

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

SECTION 1. Article 5 (commencing with Section 54690) is added to Chapter 9 of Part 29 of the Education Code, to read:

Article 5. Peninsula Academies Model Program

54690. The Legislature hereby finds and declares that the Peninsula Academies is a model program for youth employment. The Peninsula Academies is a school-business partnership program which provides training which is directly related to the job market to educationally disadvantaged high school students who present a high risk of dropping out of school. Participating private entities provide personnel, equipment, and training positions for purposes of the program conducted by the Sequoia Union High School District.

The Legislature further finds and declares that the Peninsula Academies, which currently operates in the high technology fields of computers and electronics, has demonstrated great success in reducing the number of dropouts and unemployed youths through intervention at the high school level.

54691. (a) Commencing with the 1984–85 fiscal year, from the funds appropriated for that purpose, the Superintendent of Public Instruction shall provide apportionments to school districts maintaining high schools which meet the specifications of Section 54692, for purposes of establishing not more than 10 academies, as follows:

(1) For the period commencing January 1, 1985, and ending June 30, 1985, each selected district shall receive twenty-five thousand dollars ($25,000) for each academy established to provide the Peninsula Academies model program, for purposes of planning the program and developing the curriculum.

(2) For the 1985–86 and 1986–87 fiscal years, each selected district shall receive fifty thousand dollars ($50,000) per academy.

(b) From the funds appropriated for that purpose, the Superintendent of Public Instruction shall provide an apportionment of fifty thousand dollars ($50,000) each fiscal year for the 1985–86 and 1986–87 fiscal years to the Sequoia Union High School District for each of the academies maintained under the Peninsula Academies model program.

54692. In order to be eligible to receive funding pursuant to this article, a district shall provide all of the following:

(a) An amount equal to a 100 percent match of all funds received pursuant to this article, in the form of direct and in-kind support provided by the district.

(b) An amount equal to a 100 percent match of all funds received pursuant to this article, in the form of direct and in-kind support provided by participating companies or a combination of participating companies and a business-related, community-based organization.

54693. The Educational Technology Committee shall assist the superintendent in determining the criteria for selecting eligible districts for funding pursuant to this article and identifying sites for academy programs, and by providing any necessary training and assistance resources. The superintendent shall make the final

decision regarding the selection of any school district to participate in the Peninsula Academies model program.

54694. Two years after the effective date of this chapter, the State Department of Education shall evaluate the Peninsula Academies model program and report to the Legislature regarding issues which shall include, but not be limited to, the cost-effectiveness and educational quality of the program.

SEC. 2. The sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for the purposes of Article 5 (commencing with Section 54690) of Chapter 9 of Part 29 of the Education Code, as added by Section 1 of this act.

SEC. 3. The sum of seventy thousand dollars ($70,000) is hereby appropriated from the General Fund to the Sequoia Union High School District for purposes of meeting the costs of employing industry consultants to provide instruction at each of the academies maintained under the Peninsula Academies model program.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to permit high school districts to apply for funding to establish Peninsula Academies model programs in time to receive funds pursuant to subdivision (a) of Section 54691, and to permit the Superintendent of Public Instruction to select districts for the funding scheduled to commence January 1, 1985, it is necessary that this act take effect immediately.

CHAPTER 1569

An act to add Chapter 1.7 (commencing with Section 15364.70) to Part 6.7 of Division 3 of Title 2 of the Government Code, relating to international trade, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. The Legislature hereby finds and declares that international trade, particularly between California and the nations of the Pacific Rim, has become increasingly important to California's economic strength and to the creation of employment opportunities for its people.

The Legislature further finds and declares that it may be appropriate for California, like many other states, to establish one or more international trade offices to promote and coordinate trade between California and its overseas trading partners, particularly

with nations of the Pacific Rim. To that end, the Legislature enacts this act.

SEC. 2. Chapter 1.7 (commencing with Section 15364.70) is added to Part 6.7 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 1.7. OVERSEAS TRADE OFFICES

15364.70. The California State World Trade Commission shall conduct a study, the cost of which shall not exceed thirty thousand dollars ($30,000), of the feasibility and desirability of the state establishing one or more overseas trading offices for the purposes of carrying out one or more of the following functions:

(a) Promoting foreign trade and commerce with the State of California.

(b) Encouraging foreign nations and their companies to invest and locate in California.

(c) Assisting California companies doing business with foreign nations.

(d) Representing the State of California in formal negotiations with trading partners or their companies, and in response to requests for information regarding trade and commerce with California.

(e) Serving as a clearinghouse of information for foreign countries, California, and their respective industries and firms doing business among them.

(f) Hosting trade shows and seminars in foreign countries to encourage commerce and to promote trade with California and its companies.

15364.72. The commission shall submit a report to the Legislature by June 30, 1985, which does the following:

(a) Recommends the functions to be included in one or more overseas offices from among those outlined in Section 15364.70.

(b) Identifies three or more options for establishing one or more overseas offices, including the use of a part-time office, and considers the trade-offs between establishing offices versus conducting and participating in trade shows and missions.

(c) Identifies the costs to the state of implementing the options in subdivision (b).

(d) Identifies a timetable for implementing the options in subdivision (b).

SEC. 3. There is hereby appropriated from the General Fund to the California State World Trade Commission the sum of thirty thousand dollars ($30,000) for the purposes of this act.

CHAPTER 1570

An act to amend Section 24074 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 24074 of the Business and Professions Code is amended to read:

24074. Before the filing of such a transfer application with the department, if the intended transfer of the business or license involves a purchase price or consideration, the licensee and the intended transferee shall establish an escrow with some person, corporation, or association not a party to the transfer acting as escrow holder, and the intended transferee shall deposit with the escrow holder the full amount of the purchase price or consideration. The transfer application shall be accompanied by a description of the entire consideration. Such description shall include a designation of cash, checks, promissory notes, and tangible and intangible property, and the amount of each thereof. The licensee and intended transferee shall also enter into an agreement, which agreement shall be deposited with the escrow holder, directing the escrow holder, after the requirements for transfer as provided in Section 24049 are satisfied, to pay out of the purchase price or consideration, whether such consideration takes the form of cash, checks, promissory notes, or tangible or intangible property, the claims of the bona fide creditors of the licensee who file their claims with the escrow holder before the escrow holder is notified by the department of its approval of the transfer of the license or if the purchase price or consideration is not sufficient to pay the claims in full, to distribute the consideration as follows:

First, to the United States for claims based on income or withholding taxes; and thereafter for claims based on any tax other than specified in Section 24049.

Second, to the payment of claims for wages, salaries, or fringe benefits of employees of the seller or transferor earned or accruing prior to the sale, transfer, or opening of an escrow for the sale thereof.

Third, to the payment of claims of secured creditors to the extent of the proceeds which arise from the sale of the security.

Fourth, to the payment of claims on mechanics' liens.

Fifth, to the payment of escrow fees and the payment of claims for prevailing brokerage fees for services rendered and claims for reasonable attorney's fees for services rendered.

Sixth, to the payment of claims for goods sold and delivered to the transferor for resale at his licensed premises and the payment of claims for services rendered, performed, or supplied in connection

with the operation of the licensed business; and to the payment of claims of a landlord, to the extent of proceeds on past due rent.

Seventh, to the payment of all other claims. The payment of these claims if sufficient assets are not available for the payment of the claim in full shall be paid pro rata.

If the transferor licensee disputes any claim, the escrow holder shall notify the claimant, and the amount or pro rata amount thereof shall be retained by the escrow holder for a period of 25 days, and if not attached shall be paid to the transferor licensee. The agreement shall also provide that the escrow holder shall make the payment or distribution within a reasonable time after the completion of the transfer of the license.

SEC. 2. Section 24074 of the Business and Professions Code is amended to read:

24074. Before the filing of such a transfer application with the department, if the intended transfer of the business or license involves a purchase price or consideration, the licensee and the intended transferee shall establish an escrow with some person, corporation, or association not a party to the transfer acting as escrow holder, and the intended transferee shall deposit with the escrow holder the full amount of the purchase price or consideration. The transfer application shall be accompanied by a description of the entire consideration. The description shall include a designation of cash, checks, promissory notes, and tangible and intangible property, and the amount of each thereof. The licensee and intended transferee shall also enter into an agreement, which agreement shall be deposited with the escrow holder, directing the escrow holder, after the requirements for transfer as provided in Section 24049 are satisfied, to pay out of the purchase price or consideration, whether the consideration takes the form of cash, checks, promissory notes, or tangible or intangible property, the claims of the bona fide creditors of the licensee who file their claims with the escrow holder before the escrow holder is notified by the department of its approval of the transfer of the license or if the purchase price or consideration is not sufficient to pay the claims in full, to distribute the consideration as follows:

First, to the United States for claims based on income or withholding taxes; and thereafter for claims based on any tax other than specified in Section 24049.

Second, to the payment of claims for wages, salaries, or fringe benefits of employees of the seller or transferor earned or accruing prior to the sale, transfer, or opening of an escrow for the sale thereof.

Third, to the payment of claims of secured creditors to the extent of the proceeds which arise from the sale of the security.

Fourth, to the payment of claims on mechanics' liens.

Fifth, to the payment of escrow fees and the payment of claims for prevailing brokerage fees for services rendered and claims for reasonable attorney's fees for services rendered.

Sixth, to the payment of claims for goods sold and delivered to the

transferor for resale at his licensed premises and the payment of claims for services rendered, performed, or supplied in connection with the operation of the licensed business, and to the payment of claims of a landlord, to the extent of proceeds on past due rent.

Seventh, to the payment of other claims which have been reduced to court-ordered judgments, including claims for court-ordered support of a minor child.

Eighth, to the payment of all other claims. The payment of these claims if sufficient assets are not available for the payment of the claim in full shall be paid pro rata.

If the transferor licensee disputes any claim, the escrow holder shall notify the claimant, and the amount or pro rata amount thereof shall be retained by the escrow holder for a period of 25 days, and if not attached shall be paid to the transferor licensee. The agreement shall also provide that the escrow holder shall make the payment or distribution within a reasonable time after the completion of the transfer of the license.

SEC. 3. Section 2 of this bill incorporates amendments to Section 24074 of the Business and Professions Code proposed by both this bill and SB 1778. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 24074 of the Business and Professions Code, and (3) this bill is enacted after SB 1778, in which case Section 1 of this bill shall not become operative.

CHAPTER 1571

An act to add Section 6331 to the Labor Code, relating to occupational safety and health, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 6331 is added to the Labor Code, to read:

6331. The division shall enter into a contract for the development and execution of tests to define safety standards for the use of positive pressure, closed circuit, breathing apparatus in interior structural fires. The testing shall define numerically what constitutes positive pressure in breathing apparatus. The testing shall also address the issues of the heat of the oxygen coming into the mask, the condensation inside the mask, the possibility of, and effect of, moisture condensation in the lungs of the wearer of the mask, and the risks associated with a dislodgement of the mask in an interior structural fire situation. The development of these tests shall utilize the resources of recognized specialists in fire research to design,

conduct, and execute the tests and develop the standards. The standards board shall adopt or revise safety standards based on the results of these tests.

The test parameters, the location where the testing will take place, and the level of expertise required shall be determined by the Cal-OSHA Self Contained Breathing Apparatus Advisory Committee.

SEC. 2. The sum of forty thousand dollars ($40,000) is hereby appropriated from the General Fund to the Division of Occupational Safety and Health for the purposes of this act.

CHAPTER 1572

An act to add Section 14133.9 to the Welfare and Institutions Code, relating to medical assistance, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 14133.9 is added to the Welfare and Institutions Code, to read:

14133.9. The implementation of prior authorization permitted by subdivision (a) of Section 14133 shall be subject to all of the following provisions:

(a) The department shall secure a toll free phone number for the use of providers of Medi-Cal services listed in Section 14132. For providers, the department shall provide access to an individual knowledgeable in the program to provide Medi-Cal providers with information regarding available services. Access shall include a toll free phone number that provides reasonable access to that person. The number shall be operated 24 hours a day, seven days a week.

(b) For major categories of treatment subject to prior authorization, the department shall publicize and continue to develop its list of objective medical criteria that indicate when authorization should be granted. Any request meeting these criteria, as determined by the department, shall be approved unless contraindicated by specific medical information.

(c) The objective medical criteria required by subdivision (d) shall be adopted and published in accordance with the Administative Procedure Act, and shall be made available at appropriate cost.

(d) When a proposed treatment meets objective medical criteria, and is not contraindicated, authorization for the treatment shall be provided within an average of five working days. When a treatment authorization request is not subject to objective medical criteria, a decision on medical necessity shall be made by a professional medical employee or contractor of the department within an average of five

working days.

(e) The department shall submit to the Legislature, every three months, its treatment authorization request status report.

(f) Final decisions of the department on denial of requests for prior authorization for inpatient acute hospital care shall be reviewable upon request of a provider by a Professional Standards Review Organization established pursuant to Public Law 92-603, or a successor organization if either of the following applies:

(1) The original decision on the request was not performed by a Professional Standards Review Organization, or its successor organization.

(2) The original decision on the request was performed by a Professional Standards Review Organization, or its successor organization, and the original decision was reversed by the department. The department shall contract with one or more of these organizations to, among other things, perform the review function required by this subdivision. The review performed by the contracting organization shall result in a finding that the department's decision is either appropriate or unjustified, in accordance with existing law, regulation, and medical criteria. The cost of each review shall be borne by the party that does not prevail.

The decision of this body shall be reviewable by civil action.

SEC. 2. There is hereby appropriated from the General Fund to the Health Care Deposit Fund, the sum of one hundred sixty-two thousand five hundred twenty-seven dollars ($162,527) for the sole purpose of implementing subdivision (a) of Section 14133.9 of the Welfare and Institutions Code.

CHAPTER 1573

An act to add Section 4801.4 to the Civil Code, relating to family law.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 4801.4 is added to the Civil Code, to read:

4801.4. For the purposes of Section 4801, where it is just and reasonable in view of the circumstances of the respective parties, the court, in determining the needs of a supported spouse, may include an amount sufficient to maintain insurance for the benefit of the supported spouse on the life of the spouse required to make the payment of support so that the supported spouse will not be left without means for support in the event that the order for support is terminated by the death of the party required to make the payment of support.

SEC. 2. This act shall only become operative if Assembly Bill 3000 is enacted and amends Section 4801 of the Civil Code.

CHAPTER 1574

An act to amend Sections 13142.4, 13142.5, and 13159 of the Health and Safety Code, and to add Section 457.1 to the Penal Code, relating to arson.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 13142.4 of the Health and Safety Code is amended to read:

13142.4. The State Fire Marshal, with policy guidance and advice from the State Board of Fire Services, shall:

(a) Establish and validate recommended minimum standards for fire protection personnel and fire protection instructors at all career levels.

(b) Develop course curricula for arson, fire technology, and apprenticeship training for use in academies, colleges, and other educational institutions.

(c) Develop, validate, update, copyright, and maintain security over a complete series of promotional examinations based on the minimum standards established pursuant to subdivision (a).

(d) Have the authority to make the examinations developed pursuant to subdivision (c) available to any agency of the state, to any political subdivision within the state, or to any other testing organization, as he or she deems appropriate.

(e) Promote participation in, sponsor, and administer the California Firefighter Joint Apprenticeship Program as the preemployment recruitment, selection, and training system to be utilized for entry level firefighters.

(f) Establish advisory committees or panels, as necessary, to assist the State Fire Marshal in carrying out his or her functions under this section.

(g) Establish such fees as necessary to implement this section.

(h) Promote, sponsor, and administer the California Fire Academy System.

(i) This section shall be known, and may be cited, as the California Fire and Arson Training Act.

(j) The recommended minimum standards established pursuant to subdivision (a) shall not apply to any agency of the state or any agency of any political subdivision within the state unless that agency elects to be subject to these standards.

SEC. 2. Section 13142.5 of the Health and Safety Code is amended

to read:

13142.5. There is established in the State Treasury the California Fire and Arson Training Fund. All revenue collected pursuant to Section 13142.4 shall be paid into this fund and these moneys shall be available when appropriated by the Legislature for the office of the State Fire Marshal to carry out the provisions of Section 13142.4.

SEC. 3. Section 13159 of the Health and Safety Code is amended to read:

13159. The State Fire Marshal, with policy guidance and advice from the State Board of Fire Services, shall have the following responsibilities:

(a) To make fire service training and education programs, including training and education in the use of heavy rescue equipment, available on a voluntary basis to fire departments that rely extensively on volunteers.

(b) Cooperate with the State Board of Fire Services in the development of a minimum standards program for fire service personnel and fire service instructors.

(c) Assist and cooperate with State Board of Fire Services pursuant to Section 13142.4.

(d) Verify that minimum curriculum requirements, facilities, and faculty standards for schools, seminars, or workshops operated by or for the state for the specific purpose of training fire service personnel are being met.

(e) Make or encourage studies of any aspect of fire service training and education.

(f) Determine the need for and recommend locations of regional training sites.

(g) Develop a model plan or system for use by fire departments for the control of fires and the safety of firefighters where hazardous materials are involved.

(h) Study the feasibility of establishing within the office of the State Fire Marshal, a depository of information on hazardous material characteristics for use by local fire departments and other entities that respond to emergencies.

SEC. 4. Section 457.1 is added to the Penal Code, to read:

457.1. (a) As used in this section, "arson" means a violation of Section 451 or 453.

(b) Upon a conviction of the offense of arson or attempted arson, the court may impose, in addition to any other penalty prescribed by law, a requirement that the person shall, within 30 days, register with the chief of police of the city in which he or she resides, or the sheriff of the county if he or she resides in an unincorporated area, and shall register within 30 days of coming into any county or city in which he or she expects to reside or is temporarily domiciled for at least 30 days. The court shall not require the person to register unless it finds that the person in committing the offense exhibited compulsive behavior, and unless it states on the record the reasons for its findings.

(c) Any person required to register pursuant to this section who is discharged or paroled from a jail, prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of arson shall, prior to the discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement. The official shall require the person to read and sign such form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The official in charge of the place of confinement shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement shall give one copy of the form to the person, and shall, not later than 45 days prior to the scheduled release of the person, send four copies to the Department of Justice, which, in turn, shall forward one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release, one copy to the prosecuting agency which prosecuted the person, and one copy to the court where he or she was prosecuted. All forms shall be transmitted within such times as to be received by the local law enforcement agency, prosecuting agency and court 30 days prior to the discharge, parole, or release of the person.

(d) Any person who is required to register pursuant to this section who is released on probation or discharged upon payment of a fine shall, prior to the release or discharge, be informed of his or her duty to register under this section by the court in which he or she has been convicted, and the court shall require the person to read and sign such form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon his or her release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, and shall send two copies to the Department of Justice, which, in turn, shall forward one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(e) The registration shall consist of (1) a statement in writing signed by the person, giving the information as may be required by the Department of Justice, and (2) the fingerprints and photograph of the person. Within three days thereafter, the registering law enforcement agency shall forward the statement, fingerprints, and photograph to the Department of Justice.

(f) If any person required to register by this section changes his or her residence address, he or she shall inform, in writing within 10 days, the law enforcement agency with whom he or she last registered of his or her new address. The law enforcement agency

shall, within three days after receipt of the information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence.

(g) In the case of a person convicted for the first time of arson, the person shall be required to comply with the requirements of this section only for a period of five years after the discharge from prison, release from jail, or termination of probation or parole of the person convicted.

(h) Any person required to register under the provisions of this section who violates any of the provisions thereof is guilty of a misdemeanor. Any person who has been convicted of arson or attempted arson and who is required to register under the provisions of this section who willfully violates any of the provisions thereof is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days nor more than one year in the county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in the county jail and of completing probation of at least one year.

(i) Whenever any person is released on parole or probation and is required to register under the provisions of this section but fails to do so within the time prescribed, the Community Release Board, the Youth Authority, or the court, as the case may be, shall order the parole or probation of that person revoked.

(j) The statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace or other law enforcement officer.

(k) In any case in which a person who would be required to register pursuant to this section is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county, including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where that assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision shall not apply to any person temporarily released under guard from the institution where he or she is confined.

(*l*) Nothing in this section shall be construed to conflict with the provisions of Section 1203.4 concerning termination of probation and release from penalties and disabilities of probation.

A person required to register under this section may initiate a proceeding under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3, and upon obtaining a certificate of rehabilitation, shall be relieved of any further duty to register under this section. This certificate shall not relieve the petitioner of the duty to register under this section for any offense subject to this section of which he or she is convicted in the future.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

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

SEC. 7. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1575

An act to amend Section 18162.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 18162.5 of the Revenue and Taxation Code is amended to read:

18162.5. (a) In the case of any taxpayer, only the following percentages of the gain or loss recognized upon the sale or exchange of a capital asset, except gains from small business stock or nonproductive assets, shall be taken into account in computing taxable income:

(1) One hundred percent if the capital asset has been held for not more than one year.

(2) Sixty-five percent if the capital asset has been held for more than one year but not more than five years.

(3) Fifty percent if the capital asset has been held more than five years.

(b) In the case of any taxpayer, only the following percentages of the gain recognized upon the sale or exchange of small business stock shall be taken into account in computing taxable income:

(1) One hundred percent if the small business stock has been held

for not more than one year.

(2) Sixty-five percent if the small business stock has been held for more than one year but not more than three years.

(3) Zero percent if the small business stock has been held for more than three years, and if at the time of sale, the fair market value (as defined in Section 110) of land owned or controlled by the corporation does not exceed 25 percent of the fair market value of the corporation (as reflected in the price at which the stock was sold).

(c) In the case of any taxpayer, only the following percentages of the gain recognized upon the sale or exchange of nonproductive assets shall be taken into account in computing taxable income:

(1) One hundred percent if the nonproductive asset has been held for not more than one year.

(2) Seventy percent if the nonproductive asset has been held for more than one year but not more than five years.

(3) Fifty percent if the nonproductive asset has been held for more than five years.

(d) Subdivision (b) shall apply with respect to small business stock acquired after September 16, 1981.

(e) For purposes of this section, "small business stock" is an equity security issued by a corporation which has the following characteristics at the time of acquisition by the taxpayer:

(1) The commercial domicile or primary place of business is located within California.

(2) The total employment of the corporation is no more than 500 employees, as measured by the number of employees covered by federal unemployment insurance on December 31 of the year preceding acquisition of the small business stock, a majority of which employees were covered by California unemployment insurance on December 31 of the year preceding acquisition of the small business stock; provided, that, if more than 50 percent of the outstanding equity securities of all classes are held by another corporation, the employment of the controlling corporation shall be counted as employment of the eligible corporation for purposes of this section.

(3) The outstanding issues of the corporations, including those held by the taxpayer, are not listed on the New York Stock Exchange, the American Stock Exchange, or the National Association of Securities Dealers Automated Quotation system.

(4) No more than 25 percent of gross receipts in the immediate prior income year were obtained from rents, interest, dividends, or sales of assets.

(5) The corporation is not engaged primarily in the business of holding land.

(6) Notwithstanding paragraph (4), "small business stock" includes an equity security issued by a corporation which has derived no more than 25 percent of its gross receipts from rents, dividends, or sales of assets during any of the first four income years following the date of its incorporation.

The provisions of paragraph (6) shall not be deemed satisfied by a corporation which issues equity securities if that corporation, for tax purposes only, liquidates its assets, in whole or in part, in anticipation of qualifying under those provisions and then subsequently reorganizes that portion of the corporation under a new name.

(f) For purposes of this section, "small business stock" does not include an equity security issued by a corporation which has either of the following characteristics in the income year immediately prior to the taxpayer's sale or exchange of the equity security:

(1) More than 25 percent of its gross receipts were obtained from rents, interest, dividends, or sales of assets.

(2) The corporation was primarily engaged in the business of holding land.

(g) For purposes of this section, a "nonproductive asset" is any piece of property which is any of the following:

(1) A precious or strategic metal, including but not limited to, gold, silver, and platinum, except when used by the taxpayer in his or her trade or business.

(2) Jewelry or individual gems, except when used by the taxpayer in his or her trade or business.

(3) Objects of art, except when used by the taxpayer in his or her trade or business.

(4) Antique items, including but not limited to, furniture, automobiles, coins, and ceramic objects, except when used by the taxpayer in his trade or business.

(5) Stamps, except when used by the taxpayer in his or her trade or business.

SEC. 2. Section 18162.5 of the Revenue and Taxation Code is amended to read:

18162.5. (a) In the case of any taxpayer, only the following percentages of the gain or loss recognized upon the sale or exchange of a capital asset, except gains from small business stock or nonproductive assets, shall be taken into account in computing taxable income:

(1) One hundred percent if the capital asset has been held for not more than one year.

(2) Sixty-five percent if the capital asset has been held for more than one year but not more than five years.

(3) Fifty percent if the capital asset has been held more than five years.

(b) In the case of any taxpayer, only the following percentages of the gain recognized upon the sale or exchange of small business stock shall be taken into account in computing taxable income:

(1) One hundred percent if the small business stock has been held for not more than one year.

(2) Sixty-five percent if the small business stock has been held for more than one year but not more than two years.

(3) Zero percent if the small business stock has been held for more

than two years, and if at the time of sale, the fair market value (as defined in Section 110) of land owned or controlled by the corporation does not exceed 25 percent of the fair market value of the corporation (as reflected in the price at which the stock was sold).

(c) In the case of any taxpayer, only the following percentages of the gain recognized upon the sale or exchange of nonproductive assets shall be taken into account in computing taxable income:

(1) One hundred percent if the nonproductive asset has been held for not more than one year.

(2) Seventy percent if the nonproductive asset has been held for more than one year but not more than five years.

(3) Fifty percent if the nonproductive asset has been held for more than five years.

(d) Subdivision (b) shall apply with respect to small business stock acquired after September 16, 1981.

(e) For purposes of this section, "small business stock" is an equity security issued by a corporation which has the following characteristics at the time of acquisition by the taxpayer:

(1) The commercial domicile or primary place of business is located within California.

(2) The total employment of the corporation is no more than 600 employees, as measured by the number of employees covered by federal unemployment insurance on December 31 of the year preceding acquisition of the small business stock, a majority of which employees were covered by California unemployment insurance on December 31 of the year preceding acquisition of the small business stock; provided, that, if more than 50 percent of the outstanding equity securities of all classes are held by another corporation, the employment of the controlling corporation shall be counted as employment of the eligible corporation for purposes of this section.

(3) The outstanding issues of the corporations, including those held by the taxpayer, are not listed on the New York Stock Exchange or the American Stock Exchange.

(4) No more than 25 percent of gross receipts in the immediate prior income year were obtained from rents, interest, dividends, or sales of assets.

(5) The corporation is not engaged primarily in the business of holding land.

(6) Notwithstanding paragraph (4), "small business stock" includes an equity security issued by a corporation which has derived no more than 25 percent of its gross receipts from rents, dividends, or sales of assets during any of the first four income years following the date of its incorporation.

The provisions of paragraph (6) shall not be deemed satisfied by a corporation which issues equity securities if that corporation, for tax purposes only, liquidates its assets, in whole or in part, in anticipation of qualifying under those provisions and then subsequently reorganizes that portion of the corporation under a

new name.

(f) For purposes of this section, "small business stock" does not include an equity security issued by a corporation which has either of the following characteristics in the income year immediately prior to the taxpayer's sale or exchange of the equity security:

(1) More than 25 percent of its gross receipts were obtained from rents, interest, dividends, or sales of assets.

(2) The corporation was primarily engaged in the business of holding land.

(g) For purposes of this section, a "nonproductive asset" is any piece of property which is any of the following:

(1) A precious or strategic metal, including but not limited to, gold, silver, and platinum, except when used by the taxpayer in his or her trade or business.

(2) Jewelry or individual gems, except when used by the taxpayer in his or her trade or business.

(3) Objects of art, except when used by the taxpayer in his or her trade or business.

(4) Antique items, including but not limited to, furniture, automobiles, coins, and ceramic objects, except when used by the taxpayer in his trade or business.

(5) Stamps, except when used by the taxpayer in his or her trade or business.

(h) The amendments to paragraphs (2) and (3) of subdivision (b) and paragraphs (2) and (3) of subdivision (e) made by the act adding this subdivision shall apply to stock acquired on and after the effective date of the act adding this subdivision.

SEC. 3. Section 2 of this bill incorporates amendments to Section 18162.5 of the Revenue and Taxation Code proposed by both this bill and SB 1497. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 18162.5 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 1497, in which case Section 18162.5 of the Revenue and Taxation Code, as amended by SB 1497, shall remain operative only until the operative date of this bill, at which time Section 2 of this bill shall become operative, and Section 1 of this bill shall not become operative.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall be applicable in the computation of taxes for taxable years commencing on or after January 1, 1984.

CHAPTER 1576

An act to add Section 6018.7 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 6018.7 is added to the Revenue and Taxation Code, to read:

6018.7. A licensed hearing aid dispenser is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to hearing aids sold or furnished by him or her.

SEC. 2. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

CHAPTER 1577

An act to add Section 5029 to the Food and Agricultural Code, relating to pesticides.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 5029 is added to the Food and Agricultural Code, to read:

5029. (a) The department, in consultation with the State Department of Health Services, shall design and implement a program to provide information to persons who reside in areas scheduled to be treated with pesticides on an emergency basis in order to eradicate plant pests.

(b) The purpose of this program is to provide information about the health effects of the pesticides used in eradication projects. The program shall be designed to provide the greatest amount of information practicable to affected citizens. The department shall conduct outreach efforts to inform the public about the existence of this program.

(c) The department shall implement this section during 1985 and shall report on its implementation to the Legislature by December 31, 1985.

CHAPTER 1578

An act to amend Sections 20505, 20581, 20583, and 20621 of the Revenue and Taxation Code, relating to property taxes.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 20505 of the Revenue and Taxation Code is amended to read:

20505. "Claimant" means an individual who—

(a) For purposes of this chapter was either (1) 62 years of age or older on the last day of the calendar year or approved fiscal year designated in subdivision (b) or (c) of Section 20503, whichever is applicable, or (2) blind or disabled, as defined in Section 12050 of the Welfare and Institutions Code on the last day of the calendar year or approved fiscal year designated in subdivision (b) of Section 20503, who was a member of the household, and who was either: (1) the owner and occupier of a residential dwelling on the last day of the year designated in subdivision (b) or (c) of Section 20503, or (2) the renter of a rented residence on or before the last day of the year designated in subdivision (b) of Section 20503. An individual who qualifies as an owner-claimant may not qualify as a renter-claimant for the same year.

(b) (1) For purposes of Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), Chapter 3.3 (commencing with Section 20639), and Chapter 3.5 (commencing with Section 20640) was a member of the household and either an owner-occupant, or a tenant stockholder occupant, or a possessory interest holder occupant, or a mobilehome owner-occupant, as the case may be, of the residential dwelling as to which postponement is claimed on the last day of the year designated in subdivision (b) or (c) of Section 20503, and who was 62 years of age or older by December 31 of the fiscal year for which postponement is claimed provided, for purposes of eligibility for postponement of taxes for the 1977–78 fiscal year, an individual must be 62 years of age or older by March 15, 1978.

(2) For purposes of Chapter 2 (commencing with Section 20581), was a member of the household and an owner-occupant of the residential dwelling as to which postponement is claimed on the last day of the year designated in subdivision (b) or (c) of Section 20503, and who was blind or disabled, as defined in Section 12050 of the

Welfare and Institutions Code, on December 31 of the fiscal year for which postponement is claimed.

(c) Where amounts have been postponed for any given fiscal year and the claimant continues to own and occupy the residential dwelling on December 31 of the calendar year in which the fiscal year begins, and the claimant sells the dwelling and buys a new residential dwelling in this state on or before December 31 of the following fiscal year and the new dwelling is the claimant's principal place of residence, then in that event, the claimant shall be deemed to be a qualified claimant for the purpose of this section.

SEC. 2. Section 20581 of the Revenue and Taxation Code is amended to read:

20581. This chapter shall be known and may be cited as the "Senior Citizens and Disabled Citizens Property Tax Postponement Law."

SEC. 3. Section 20583 of the Revenue and Taxation Code is amended to read:

20583. (a) "Residential dwelling" means a dwelling occupied as the principal place of residence of the claimant, and so much of the land surrounding it as is reasonably necessary for use of the dwelling as a home, owned by the claimant, the claimant and spouse, or by the claimant and either another individual eligible for postponement under this chapter or an individual described in subdivision (a), (b) or (c) of Section 20511 and located in this state. It shall include condominiums and mobilehomes which are assessed as realty for local property tax purposes. It also includes part of a multidwelling or multipurpose building and a part of the land upon which it is built. In the case of a mobilehome not assessed as real property which is located on land owned by the claimant, residential "dwelling" includes the land on which the mobilehome is situated and so much of the land surrounding it as reasonably necessary for use of the mobilehome as a home.

(b) As used in this chapter in reference to ownership interests in residential dwellings, "owned" includes (1) the interest of a vendee in possession under a land sale contract provided that the contract or memorandum thereof is recorded and only from the date of recordation of the contract or memorandum thereof in the office of the county recorder where the residential dwelling is located, (2) the interest of the holder of a life estate provided that the instrument creating the life estate is recorded and only from the date of recordation of the instrument creating the life estate in the office of the county recorder where the residential dwelling is located, but "owned" does not include the interest of any remainderman or holder of a reversionary interest in the residential dwelling, (3) the interest of a joint tenant or a tenant in common in the residential dwelling or the interest of a tenant where title is held in tenancy by the entirety or a community property interest where title is held as community property.

(c) For purposes of this chapter, the registered owner of a

mobilehome shall be deemed to be the owner of the mobilehome.

(d) Except as provided in subdivision (c), and Chapter 3 (commencing with Section 20625), ownership must be evidenced by an instrument duly recorded in the office of the county where the residential dwelling is located.

(e) "Residential dwelling" does not include any of the following:

(1) Any residential dwelling in which the owners do not have an equity of at least 20 percent of the full value of the property as determined for purposes of property taxation at the time the claimant or authorized agent tenders to the tax collector for the purposes of postponement the certificate or certificates of eligibility described in Section 20602 and Section 20639.6.

(2) Any residential dwelling in which the claimant's interest is held pursuant to a contract of sale or under a life estate, unless such claimant obtains the written consent of the vendor under the contract of sale, or the holder of the reversionary interest upon termination of the life estate for the postponement of taxes and the creation of a lien on the real property in favor of the state for amounts postponed pursuant to this act.

(3) Any residential dwelling on which the claimant does not receive a secured tax bill.

(4) Any residential dwelling in which the claimant's interest is held as a possessory interest, except as provided in Chapter 3.5 (commencing with Section 20640).

(5) (A) Except as provided in this section, any residential dwelling on which the property taxes, as defined in Section 20584, are delinquent at the time the application for postponement under this chapter is made or on which any other property tax or special assessment imposed by a special district or other tax code area is delinquent at the time the application for postponement under this chapter is made.

(B) Any taxes or assessments described in subparagraph (A) which are delinquent on July 1, 1977, shall not disqualify an otherwise eligible dwelling for postponement under this chapter. An application for postponement under this chapter to postpone the payment of property taxes for the 1977–78 fiscal year, shall also constitute an application for the postponement of all such delinquent taxes and assessments, together with any penalties, interest, fees, or other charges resulting from such delinquency and such amounts shall, unless otherwise paid by the claimant, be paid out of the amount appropriated by Section 16100 of the Government Code and shall be added to and become part of the obligation secured by the lien provided by Section 16182 of the Government Code; provided, however, that upon payment of delinquent taxes and assessments for fiscal year 1976–77 out of the amount appropriated by Section 16100, any delinquent penalties, interest, fees or other charges resulting from the delinquency of such taxes and assessments for fiscal year 1976–77 shall be canceled.

(C) For 1978–79 and thereafter, any taxes or assessments

described in subparagraph (A) which became delinquent after the claimant was 62 and before the claimant first has established a lien pursuant to Section 16182 of the Government Code shall not disqualify an otherwise eligible dwelling for postponement under this chapter. An application to postpone taxes for 1978–79 or thereafter shall also constitute an application for the postponement of all delinquent taxes and assessments, together with any penalties, interest, fees, or other charges resulting from the delinquency and those amounts shall, unless otherwise paid by the claimant, be paid out of the amount appropriated by Section 16100 of the Government Code and shall be added to and become part of the obligation secured by the lien provided by Section 16182 of the Government Code.

(6) All taxes or assessments described in subparagraph (A) of paragraph (5) which are delinquent on the date this bill takes effect shall not disqualify an otherwise eligible blind or disabled applicant's dwelling from postponement under this chapter. A blind or disabled citizen's application for postponement of property taxes shall not constitute an application for the postponement of any delinquent taxes and assessments, or any penalties, interest, fees or other charges resulting from delinquency. Delinquent taxes of blind or disabled applicants shall not be subject to postponement under this chapter.

SEC. 4. Section 20621 of the Revenue and Taxation Code is amended to read:

20621. Each claimant applying for postponement under Article 2 (commencing with Section 20601) of this chapter shall file a claim under penalty of perjury with the Controller on a form supplied by the Controller. The claim shall contain:

(a) Evidence acceptable to the Controller that the person was a "senior citizen claimant", or a "blind or disabled claimant."

(b) A statement showing the household income for the period set forth in Section 20503.

(c) A statement describing the residential dwelling in a manner as the Controller may prescribe.

(d) The name of the county in which the residential dwelling is located and the address of the residential dwelling.

(e) The county assessor's parcel number applicable to the property for which the claimant is applying for the postponement of property taxes.

(f) Documentation evidencing the current existence of any abstract of judgment, federal tax lien, or state tax lien filed or recorded against the applicant, and any recorded mortgage, or deed of trust which affect the subject residential dwelling, for the purpose of determining that the claimant possesses a 20 percent equity in the subject residential dwelling as required by paragraph (1) of subdivision (b) of Section 20583.

Actual costs, not in excess of fifty dollars ($50), paid by the claimant to obtain the documentation shall, in the event the Controller issues a certificate of eligibility, reduce the amount of the

lien for the year, but not the face amount of the payment prescribed in Section 16180.

(g) Other information required by the Controller to establish eligibility.

SEC. 5. This act shall not become operative unless Assembly Constitutional Amendment 66 of the 1983–84 Regular Session of the Legislature is adopted. In the event Assembly Constitutional Amendment 66 is adopted, this act shall apply to property taxes due for the 1985–86 fiscal year and fiscal years thereafter.

CHAPTER 1579

An act to add Section 21382.4 to the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 21382.4 is added to the Government Code, to read:

21382.4. (a) In lieu of benefits provided in Section 21382 or Section 21382.2, if the death benefit provided by Section 21361 is payable on account of a state member's death which occurs under circumstances other than those described in subdivision (a) (5) of Section 21360, or if an allowance under Section 21365.5 is payable, the payment pursuant to subdivision (b) shall be made in the following order of priority:

(1) The surviving wife or surviving husband of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of disability which began before and has continued without interruption after attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are 22 years of age or are so incapacitated.

(3) The surviving wife or surviving husband of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21361 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21365.5, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the state, shall be paid:

(1) A widow or a widower who was married to the member prior to the occurrence of the injury or onset of the illness which resulted in death, and has the care of unmarried children, including

stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid seven hundred dollars ($700) per month if there is one such child, or eight hundred forty dollars ($840) per month if there are two or more such children. If there also are such children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, which is in excess of three hundred fifty dollars ($350) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no such surviving spouse, or if the surviving spouse dies or remarries, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are such children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid three hundred fifty dollars ($350) per month.

(B) If there are two children, the children shall be paid seven hundred dollars ($700) per month divided equally between them.

(C) If there are three or more children, the children shall be paid eight hundred forty dollars ($840) per month divided equally among them.

(3) A widow or a widower who has attained or attains the age of 62 years, and, with respect to both widow and widower, who was married to the member prior to the occurrence of the injury or onset of the illness which resulted in death and has not remarried subsequent to the member's death, shall be paid three hundred fifty dollars ($350) per month. No allowance shall be paid under paragraph (1), or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be one hundred forty dollars ($140) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for the 1959 survivor allowance, or if the surviving spouse dies or remarries and there is no such surviving child, or if the surviving spouse dies or remarries and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains the age of 62 years, and who received at least one-half of his support from the member at the time of the member's death, shall be paid three hundred fifty dollars ($350) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with the member in a regular parent-child relationship at the time of the death of the member.

(d) This section shall apply to beneficiaries of state members receiving 1959 survivor allowances on January 1, 1985. All assets and liabilities of all state agencies and their employees on account of benefits provided to beneficiaries specified in this subdivision shall be pooled into a single account. The board shall transfer from the

reserve for 1959 survivor contributions retained in the retirement fund, an amount sufficient to pay the cost of the increased benefits provided by this subdivision for beneficiaries of members who died on or before December 31, 1984.

(e) This section shall not apply to beneficiaries with respect to the death of a state member occurring on or after January 1, 1985, unless provided for in a memorandum of understanding reached pursuant to Section 3517.5. The memorandum of understanding adopting this section shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature as provided by law.

(f) This section shall apply, with respect to benefits payable on and after January 1, 1985, to school members, except that it shall not apply, without contract amendment, with respect to safety members who became members after January 1, 1985. All assets and liabilities of all school employers, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of school members employed by a school employer.

(g) This section shall apply to members of a contracting agency which, by amending its contract, first elects effective on or after January 1, 1985, to make this article applicable to local members employed by the agency. On and after January 1, 1985, contracting agencies already subject to Section 21382 or Section 21382.2 may elect by contract amendment to be subject to this section. All assets and liabilities of all contracting agencies subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of members employed by a contracting agency which is subject to this section.

(h) The rate of contribution of an employer subject to this section shall be figured using the term insurance valuation method. If a contracting agency which is subject to this section has a surplus in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, such surplus will be applied to reduce its rate of contribution. If a contracting agency which is subject to this section has a deficit in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, its rate of contribution will be increased until the deficit is paid.

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

of that code.

CHAPTER 1580

An act to amend Section 68543.5 of the Government Code, relating to judges, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 68543.5 of the Government Code is amended to read:

68543.5. Whenever a judge retired as such under the Judges' Retirement Law is assigned to sit in a court, he shall be compensated while so sitting at a rate equal to 92 percent of the full compensation of a judge of the court to which he is assigned. A retired judge of a justice court assigned to sit in a court shall be compensated while so sitting at the full compensation of a judge of the court to which he is assigned, or the compensation specified in Section 68541, whichever is greater. Such compensation shall be chargeable for the period specified in Section 68547 the same as provided by law with respect to the compensation of a judge of the court to which he is assigned except that when chargeable to the state, such compensation is payable out of any appropriation for extra compensation of judges assigned by the Chairman of the Judicial Council.

If such compensation is greater than his retirement allowance, his retirement allowance shall be suspended so long as he receives such compensation. If such compensation is less than his retirement allowance, his retirement allowance shall continue to be paid while he receives such compensation but only in an amount equal to the difference between such compensation and the retirement allowance to which he would otherwise be entitled.

If a judge retired under the Judges' Retirement Law is assigned to sit in a court, the 8-percent difference between the compensation of the retired judge while so assigned and the compensation of a judge of the court to which assigned shall be paid to the Judges' Retirement Fund.

When assigned to sit in a county other than that in which he resides, he shall also be allowed his necessary expenses for travel, board, and lodging incurred in the discharge of the assignment. Such expenses, if any, shall be chargeable as follows:

(a) When the assignment is to the Supreme Court or a court of appeal, to the state.

(b) When the assignment is to a superior, municipal, or justice court, to the county.

When assigned to sit in a county in which he resides, he shall be allowed his necessary and reasonable expenses for travel, parking, and board incurred in the discharge of the assignment for and during any period that he waives salary or other compensation except his retirement allowance.

SEC. 2. Section 68543.5 of the Government Code is amended to read:

68543.5. Whenever a judge retired as such under the Judges' Retirement Law is assigned to sit in a court, he shall be compensated while so sitting at a rate equal to 92 percent of the full compensation of a judge of the court to which he is assigned. A retired judge of a justice court assigned to sit in a court shall be compensated while so sitting at the full compensation of a judge of the court to which he is assigned, or the compensation specified in Section 68541, whichever is greater. Such compensation shall be chargeable for the period specified in Section 68547 the same as provided by law with respect to the compensation of a judge of the court to which he is assigned except that when chargeable to the state, such compensation is payable out of any appropriation for extra compensation of judges assigned by the Chairman of the Judicial Council.

If such compensation is greater than his retirement allowance, his retirement allowance shall be suspended so long as he receives such compensation. If such compensation is less than his retirement allowance, his retirement allowance shall continue to be paid while he receives such compensation but only in an amount equal to the difference between such compensation and the retirement allowance to which he would otherwise be entitled.

If a judge retired under the Judges' Retirement Law is assigned to sit in a court, the 8-percent difference between the compensation of the retired judge while so assigned and the compensation of a judge of the court to which assigned shall be paid to the Judges' Retirement Fund.

When assigned to sit in a county other than that in which he resides, he shall also be allowed his necessary expenses for travel, board, and lodging incurred in the discharge of the assignment. Such expenses, if any, shall be chargeable as follows:

(a) When the assignment is to the Supreme Court or a court of appeal, to the state.

(b) When the assignment is to a superior, municipal, or justice court, to the county.

When assigned to sit in a county in which he resides, he shall be allowed his necessary and reasonable expenses for travel, parking, and board incurred in the discharge of the assignment for and during any period that he waives salary or other compensation except his retirement allowance.

Notwithstanding the above provisions pertaining to compensation, a retired judge on senior judge status shall receive compensation from the state as provided in Section 75028, and be allowed necessary

expenses for travel, board, and lodging incurred in the discharge of the assignment as provided in this section.

SEC. 3. Section 2 of this bill incorporates amendments to Section 68543.5 of the Government Code proposed by both this bill and AB 3328. It shall only become operative if (1) both bills are enacted and become effective January 1, 1985, (2) each bill amends Section 68543.5 of the Government Code, and (3) this bill is enacted after AB 3328, in which case Section 1 of this bill shall not become operative.

SEC. 4. The sum of ninety-two thousand dollars ($92,000) is hereby appropriated from the General Fund to the Controller for allocation and disbursement in accordance with Section 2231 of the Revenue and Taxation Code to local agencies and school districts to reimburse them for costs mandated by the state and incurred by them pursuant to this act.

CHAPTER 1581

An act to add Sections 12419.2 and 12419.3 to the Government Code, and to add Section 1384 to the Unemployment Insurance Code, relating to unemployment insurance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 12419.2 is added to the Government Code, to read:

12419.2. (a) The Controller shall, under the authority to offset granted by Section 12419.5 and in conjunction with the Franchise Tax Board, develop a program to provide for multiple offsets with adjustable priorities and, when a joint return is filed, the ability to cross-match the liable person's social security number.

(b) The Controller shall charge, by arrangement with the entities who elect to participate in the program, an amount sufficient to reimburse the Controller and the Franchise Tax Board for the costs of administration of the program. State agencies participating in the offset program may add the cost of collection, as determined by the Controller, to the amount due the agency.

SEC. 2. Section 12419.3 is added to the Government Code, to read:

12419.3. (a) The Controller shall, for the three-year period after the offset program becomes operational, offset delinquent accounts against personal income tax refunds which have been certified by the Franchise Tax Board, in the following priority:

(1) Nonpayment of child support accounts.

(2) Benefit overpayment accounts administered by the Employment Development Department if no signed reimbursement agreement exists, or if two consecutive payments on a reimbursement agreement are delinquent as of September 30 of the taxable year.

(3) Other offset accounts in the priority determined by the Controller.

(b) The Controller, the Franchise Tax Board, and the department shall annually report to the Assembly Committees on Finance and Insurance and Revenue and Taxation and the Senate Committees on Industrial Relations and Revenue and Taxation on the progress of offsets in reducing outstanding benefit overpayment accounts, and the programs for multiple offsets with adjustable priorities and cross-matching capabilities.

The first report shall be submitted prior to July 1, 1985, covering the 1984 taxable year and annually thereafter on July 1 covering the previous taxable year. The last report shall be due on July 1, 1989.

SEC. 3. Section 1384 is added to the Unemployment Insurance Code, to read:

1384. Amounts collected by the Controller for benefit overpayment accounts, pursuant to Section 12419.2 of the Government Code, shall be deposited in the fund from which the overpayment was made, except that the amounts collected to offset the costs of collections shall be deposited in the Unemployment Administration Fund.

SEC. 4. The sum of four hundred ninety-five thousand dollars ($495,000) is hereby appropriated from the General Fund to carry out the purposes of this act, to be allocated as follows:

(a) One hundred thousand dollars ($100,000) for the Controller.

(b) Three hundred ninety-five thousand dollars ($395,000) for the Franchise Tax Board.

It is the intent of the Legislature that the Controller increase the charges to all participants in the offset program during the initial three years by an amount sufficient to recoup the appropriation in this act. The amount shall be credited to the General Fund.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that individuals who entered into agreements to make periodic payments are not denied their rights based upon state action, it is essential that this act take effect immediately.

CHAPTER 1582

An act making an appropriation to pay the claims of the Secretary of the State Board of Control, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984]

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

SECTION 1. The sum of two million seven hundred twenty-two thousand four hundred twenty-five dollars and twenty-seven cents ($2,722,425.27) is hereby appropriated from the funds indicated to the State Board of Control to pay the claims of the Secretary of the State Board of Control:

General Fund	$2,016,155.23
Fish and Game Preservation Fund	200,815.72
Transportation Fund, Motor Vehicle Account	339,000.00
Transportation Fund, State Highway Account	126,746.67
Public Employees Retirement Fund	11,524.30
Item 8350-001-001, Budget Act of 1984	28,183.35
Total	$2,722,425.27

SEC. 2. The amount appropriated by Section 1 from the Transportation Fund, State Highway Account, shall be used to pay court-awarded attorney's fees in the cases of People v. Joseph J. Bosio, et al. and Preserve Lompoc's Unique Surroundings!, et al. v. Division of Highways, because the courts ordered the fees prior to the enactment of specific items of appropriation contained in state budget acts.

SEC. 3. Except as provided in Section 2, funds appropriated by this act for payment of attorney's fees pursuant to Section 1021.5 of the Code of Civil Procedure shall be expended only in accordance with the provisions of Items 9810-001-001, 9810-001-494, and 9810-001-988 of the Budget Act of 1984.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to settle claims against the state and to end a hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 1583

An act to amend Section 14051 of the Government Code, relating to aeronautics, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 14051 of the Government Code is amended to read:

14051. (a) At the commencement of each Regular Session of the Legislature, the department shall submit to the Legislature a report summarizing information required under, and programs authorized by, Sections 118.6, 216, and 820 of, Article 3.5 (commencing with Section 156) of Chapter 1 of Division 1 of, and Chapter 4.6 (commencing with Section 2170) and Chapter 13 (commencing with Section 2540) of Division 3 of, the Streets and Highways Code.

(b) Information on other program activities may be included in the biennial report at the discretion of the department.

(c) The report required by this section shall also include all of the following:

(1) An evaluation of significant air transportation issues anticipated to be of public concern during the five-year period commencing January 1 of the year preceding the date for submission of the report and beyond.

(2) Recommended modifications to state and federal law, where appropriate.

(3) An overview of necessary future investments in the development and maintenance of the state's air transportation system.

(4) An analysis of the department's organizational and staff needs relative to its air transportation responsibilities.

(5) A review of state aeronautics policy. In preparing the portion of the report required by this subdivision, the department shall fully consider and incorporate air transportation needs as identified by local government and the private sector, as well as the need to fully integrate air transportation issues and concerns into the mission of the department.

SEC. 2. Section 14051 of the Government Code is amended to read:

14051. (a) At the commencement of each Regular Session of the Legislature, the department shall submit to the Legislature a report summarizing information required under, and programs authorized by, Sections 118.6, 216, and 820 of, Article 3.5 (commencing with Section 156) of Chapter 1 of Division 1 of, and Chapter 4.6 (commencing with Section 2170) and Chapter 13 (commencing with Section 2540) of Division 3 of, the Streets and Highways Code.

(b) Information on other program activities may be included in the biennial report at the discretion of the department.

(c) The report required by this section shall also include all of the following:

(1) An evaluation of significant air transportation issues anticipated to be of public concern during the five-year period commencing January 1 of the year preceding the date for submission of the report and beyond.

(2) Recommended modifications to state and federal law, where appropriate.

(3) An overview of necessary future investments in the development and maintenance of the state's air transportation system.

(4) An analysis of the department's organizational and staff needs relative to its air transportation responsibilities.

(5) A review of state aeronautics policy.

In preparing the portion of the report required by this subdivision, the department shall fully consider and incorporate air transportation needs as identified by local government and the private sector, as well as the need to fully integrate air transportation issues and concerns into the mission of the department.

(d) The report required by this section shall also include all of the following:

(1) The status of alternative technologies in transportation, including, but not limited to, the efforts made in research development. The alternative technologies reported on shall seek to improve public safety, energy efficiency, and air quality.

(2) Alternatives to fossil fuels to power transportation devices, including alternative methods of propulsion of motor vehicles.

SEC. 3. (a) The sum of two million seven hundred thousand dollars ($2,700,000), which is the amount that was transferred from the Aeronautics Account in the State Transportation Fund to the General Fund by Section 21 of Chapter 115 of the Statutes of 1982, shall be transferred by the Controller from the General Fund to the special account established in the Special Deposit Fund pursuant to subdivision (b) of Section 21602 of the Public Utilities Code. The transfer shall be completed over a five-year period, commencing January 1, 1985.

(b) All moneys transferred pursuant to this section are hereby appropriated to the Department of Transportation for the purpose of Section 21602 of the Public Utilities Code.

SEC. 4. Section 2 of this bill incorporates amendments to Section 14051 of the Government Code proposed by both this bill and AB 3579. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 14051 of the Government Code, and (3) this bill is enacted after AB 3579, in which case Section 1 of this bill shall not become operative.

CHAPTER 1584

An act to amend and renumber Sections 25284, 25284.1, 25284.5, 25287, 25288, and 25288.2 of the Health and Safety Code, relating to hazardous substances.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 25284 of the Health and Safety Code is amended to read:

25284. Every underground storage tank installed after January 1, 1984, shall meet all of the following requirements:

(a) Be designed and constructed to provide primary and secondary levels of containment of the hazardous substances stored in it in accordance with the following performance standards:

(1) Primary containment shall be product-tight.

(2) Secondary containment shall be constructed to prevent structural weakening as a result of contact with any released hazardous substances, and also shall be capable of storing the hazardous substances for the maximum anticipated period of time necessary for the recovery of any released hazardous substance.

(3) In the case of an installation with one primary container, the secondary containment shall be large enough to contain at least 100 percent of the volume of the primary tank.

(4) In the case of multiple primary tanks, the secondary container shall be large enough to contain 150 percent of the volume of the largest primary tank placed in it, or 10 percent of the aggregate internal volume of all primary tanks, whichever is greater.

(5) If the facility is open to rainfall, then the secondary containment must be able to additionally accommodate the volume of a 24-hour rainfall as determined by a 100-year storm history.

(6) Single-walled containers do not fulfill the requirement of an underground storage tank providing both a primary and a secondary containment. However, an underground storage tank with a primary container constructed with a double complete shell shall be deemed to have met the requirements for primary and secondary containment set forth in this section if the outer shell is constructed primarily of nonearthen materials, including, but not limited to, concrete, steel, and plastic, which provide structural support; a continuous leak detection system with alarm is located in the space between the shells; the system is capable of detecting the entry of hazardous substances from the inner container into the space; and the system is capable of detecting water intrusion into the space from the outer shell.

(7) The design and construction of underground storage tanks for motor vehicle fuels storage need not meet the requirements of

paragraphs (1) to (6), inclusive, if the primary containment construction is of glass fibre reinforced plastic, cathodically protected steel, or steel clad with glass fibre reinforced plastic, any such alternative primary containment is installed in conjunction with a system that will intercept and direct a leak from any part of the tank to a monitoring well to detect any release of motor vehicle fuels stored in the tank and which is designed to provide early leak detection, response, and to protect groundwater from releases, and if the monitoring is in accordance with the alternative method identified in paragraph (4) of subdivision (b) of Section 25284.1. Pressurized piping systems connected to underground storage tanks used for the storage of motor vehicle fuels and monitored in accordance with paragraph (4) of subdivision (b) of Section 25284.1 also meet the requirements of this subdivision.

(b) Be designed and constructed with a monitoring system capable of detecting the entry of the hazardous substance stored in the primary containment into the secondary containment. If water could intrude into the secondary containment, a means of monitoring for water intrusion and for safely removing the water shall also be provided.

(c) When required by the local agency, a means of overfill protection for any primary tank, including an overfill prevention device or an attention-getting higher level alarm, or both. Primary tank filling operations of underground storage tanks containing motor vehicle fuels which are visually monitored and controlled by a facility operator satisfy the requirements of this subdivision.

(d) Different substances that in combination may cause a fire or explosion, or the production of flammable, toxic, or poisonous gas, or the deterioration of a primary or secondary container, shall be separated in both the primary and secondary containment so as to avoid potential intermixing.

(e) If water could enter into the secondary containment by precipitation or infiltration, the facility shall contain a means of removing the water by the owner or operator. This removal system shall also prevent uncontrolled removal of this water and provide for a means of analyzing the removed water for hazardous substance contamination and a means of disposing of the water, if so contaminated, at an authorized disposal facility.

(f) Before the underground storage tank is covered, enclosed, or placed in use, the standard installation testing for requirements for underground storage systems specified in Section 2-7 of the Flammable and Combustible Liquids Code, adopted by the National Fire Protection Association, (NFPA 30) as amended and published in the respective edition of the Uniform Fire Code, shall be followed.

(g) Before the underground storage tank is placed in service, the underground storage systems shall be tested in operating condition using a precision test as defined in National Fire Protection Association Pamphlet 329, "Recommended Practice for Handling Underground Leakage of Flammable and Combustible Liquids," as

amended, for proving the integrity of an underground storage tank.

(h) If the underground storage tank is designed to maintain a water level in the secondary containment, the tank shall be equipped with a safe method of removing any excess water to a holding facility and the owner or operator shall inspect the holding facility monthly for the presence of excess water overflow. If excess water is present in the holding facility, the permitholder shall provide a means to analyze the water for hazardous substance contamination and a means to dispose of the water, if so contaminated, at an authorized disposal facility.

SEC. 2. Section 25284 of the Health and Safety Code is amended and renumbered to read:

25291. Every underground storage tank installed after January 1, 1984, shall meet all of the following requirements:

(a) Be designed and constructed to provide primary and secondary levels of containment of the hazardous substances stored in it in accordance with the following performance standards:

(1) Primary containment shall be product-tight.

(2) Secondary containment shall be constructed to prevent structural weakening as a result of contact with any released hazardous substances, and also shall be capable of storing the hazardous substances for the maximum anticipated period of time necessary for the recovery of any released hazardous substance.

(3) In the case of an installation with one primary container, the secondary containment shall be large enough to contain at least 100 percent of the volume of the primary tank.

(4) In the case of multiple primary tanks, the secondary container shall be large enough to contain 150 percent of the volume of the largest primary tank placed in it, or 10 percent of the aggregate internal volume of all primary tanks, whichever is greater.

(5) If the facility is open to rainfall, then the secondary containment shall be able to additionally accommodate the volume of a 24-hour rainfall as determined by a 100-year storm history.

(6) Single-walled containers do not fulfill the requirement of an underground storage tank providing both a primary and a secondary containment. However, an underground storage tank with a primary container constructed with a double complete shell shall be deemed to have met the requirements for primary and secondary containment set forth in this section if the outer shell is constructed primarily of nonearthen materials, including, but not limited to, concrete, steel, and plastic, which provide structural support and a continuous leak detection system with alarm is located in the space between the shells; the system is capable of detecting the entry of hazardous substances from the inner container into the space; and the system is capable of detecting water intrusion into the space from the outer shell.

(7) The design and construction of underground storage tanks for motor vehicle fuels storage need not meet the requirements of paragraphs (1) to (6), inclusive, if all of the following conditions exist:

(A) The primary containment construction is of glass fiber reinforced plastic, cathodically protected steel, or steel clad with glass fiber reinforced plastic.

(B) Any alternative primary containment is installed in conjunction with a system that will intercept and direct a leak from any part of the tank to a monitoring well to detect any release of motor vehicle fuels stored in the tank.

(C) The system designed to provide early leak detection and response, and to protect the groundwater from releases.

(D) The monitoring is in accordance with the alternative method identified in paragraph (3) of subdivision (b) of Section 25292.

(E) Pressurized piping systems connected to underground storage tanks used for the storage of motor vehicle fuels and monitored in accordance with paragraph (3) of subdivision (b) of Section 25292 also meet the requirements of this subdivision provided that the tank meets the conditions of subparagraphs (A) to (D), inclusive.

(b) Be designed and constructed with a monitoring system capable of detecting the entry of the hazardous substance stored in the primary containment into the secondary containment. If water could intrude into the secondary containment, a means of monitoring for water intrusion and for safely removing the water shall also be provided.

(c) When required by the local agency, a means of overfill protection for any primary tank, including an overfill prevention device or an attention-getting higher level alarm, or both. Primary tank filling operations of underground storage tanks containing motor vehicle fuels which are visually monitored and controlled by a facility operator satisfy the requirements of this subdivision.

(d) If different substances are stored in the same tank and in combination may cause a fire or explosion, or the production of flammable, toxic, or poisonous gas, or the deterioration of a primary or secondary container, then they shall be separated in both the primary and secondary containment so as to avoid potential intermixing.

(e) If water could enter into the secondary containment by precipitation or infiltration, the facility shall contain a means of removing the water by the owner or operator. This removal system shall also prevent uncontrolled removal of this water and provide for a means of analyzing the removed water for hazardous substance contamination and a means of disposing of the water, if so contaminated, at an authorized disposal facility.

(f) Before the underground storage tank is covered, enclosed, or placed in use, the standard installation testing for requirements for underground storage systems specified in Section 2-7 of the Flammable and Combustible Liquids Code, adopted by the National Fire Protection Association, (NFPA 30) as amended and published in the respective edition of the Uniform Fire Code, shall be followed.

(g) Before the underground storage tank is placed in service, the

underground storage systems shall be tested in operating condition using a precision test as defined in National Fire Protection Association Pamphlet 329, "Recommended Practice for Handling Underground Leakage of Flammable and Combustible Liquids," as amended, for proving the integrity of an underground storage tank.

(h) If the underground storage tank is designed to maintain a water level in the secondary containment, the tank shall be equipped with a safe method of removing any excess water to a holding facility and the owner or operator shall inspect the holding facility monthly for the presence of excess water overflow. If excess water is present in the holding facility, the permitholder shall provide a means to analyze the water for hazardous substance contamination and a means to dispose of the water, if so contaminated, at an authorized disposal facility.

SEC. 3. Section 25284.1 of the Health and Safety Code is amended to read:

25284.1. For every underground storage tank installed on or before January 1, 1984, and used for the storage of hazardous substances, all of the following actions shall be taken:

(a) On or before January 1, 1985, the owner shall outfit the facility with a monitoring system capable of detecting unauthorized releases of any hazardous substances stored in the facility, and thereafter, the operator shall monitor each facility, based on materials stored and the type of monitoring installed.

(b) Provide a means for visual inspection of the tank, wherever practical, for the purpose of the monitoring required by subdivision (a). Alternative methods of monitoring the tank on a monthly or more frequent basis may be required by the local agency, consistent with the regulations of the board.

The alternative monitoring methods include, but are not limited to, the following methods:

(1) Precision testing as defined in National Fire Protection Association Pamphlet 329, "Recommended Practice for Handling Underground Leakage of Flammable and Combustible Liquids," as amended, for proving the integrity of an underground storage tank and piping system at time intervals specified by the board.

(2) A groundwater monitoring well or wells which are downgradient and adjacent to the underground storage tank, vapor analysis within a well where appropriate, and analysis of soil borings at the time of initial installation of the well. The board shall develop regulations specifying monitoring alternatives. The local agency, or any other public agency specified by the local agency, shall approve the location and number of wells, the depth of wells, and the sampling frequency, pursuant to these regulations.

(3) A continuous leak detection and alarm system which is located in monitoring wells adjacent to an underground storage tank and which is approved by the local agency.

(4) For monitoring tanks containing motor vehicle fuels, daily gauging and inventory reconciliation by the operator, if all of the

following requirements are met:

(A) Inventory records are kept on file for one year and are reviewed quarterly.

(B) The tank is tested, using the precision test as defined by the National Fire Protection Association Pamphlet 329, "Recommended Practice for Handling Underground Leakage of Flammable and Combustible Liquids," as amended, for proving the integrity of an underground storage tank at time intervals specified by the board and whenever there is a shortage greater than the amount which the board shall specify by regulation.

(C) If a pressurized pump system is connected to the tank, the system has a leak detection device to monitor for leaks in the piping.

SEC. 4. Section 25284.1 of the Health and Safety Code is amended and renumbered to read:

25292. For every underground storage tank installed on or before January 1, 1984, and used for the storage of hazardous substances, the following actions shall be taken:

(a) On or before July 1, 1985, the owner shall outfit the facility with a monitoring system capable of detecting unauthorized releases of any hazardous substances stored in the facility, and thereafter, the operator shall monitor each facility, based on materials stored and the type of monitoring installed.

(b) Provide a means for visual inspection of the tank, wherever practical, for the purpose of the monitoring required by subdivision (a). Alternative methods of monitoring the tank on a monthly, or more frequent basis, may be required by the local agency, consistent with the regulations of the board.

The alternative monitoring methods include, but are not limited to, the following methods:

(1) Precision testing as defined in National Fire Protection Association Pamphlet 329, "Recommended Practice for Handling Underground Leakage of Flammable and Combustible Liquids," as amended, for proving the integrity of an underground storage tank and piping system at time intervals specified by the board.

(2) A groundwater monitoring well or wells which are downgradient and adjacent to the underground storage tank, vapor analysis within a well where appropriate, and analysis of soil borings at the time of initial installation of the well.

(3) A continuous leak detection and alarm system which is located in monitoring wells adjacent to an underground storage tank and which is approved by the local agency.

(4) For monitoring tanks containing motor vehicle fuels, daily gauging and inventory reconciliation by the operator, if all of the following requirements are met:

(A) Inventory records are kept on file for one year and are reviewed quarterly.

(B) The tank is tested, using the precision test as defined by the National Fire Protection Association Pamphlet 329, "Recommended Practice for Handling Underground Leakage of Flammable and

Combustible Solids," as amended, for proving the integrity of an underground storage tank at time intervals specified by the board and whenever there is a shortage greater than the amount which the board shall specify by regulation.

(C) If a pressurized pump system is connected to the tank system, the system has a leak detection device to monitor for leaks in the piping.

(c) The board shall develop regulations specifying monitoring alternatives. The local agency, or any other public agency specified by the local agency, shall approve the location and number of wells, the depth of wells, and the sampling frequency, pursuant to these regulations.

SEC. 5. Section 25284.5 of the Health and Safety Code is amended to read:

25284.5. (a) If there has been any unauthorized release, as defined in subdivision (a) of Section 25284.4, from an underground storage tank containing motor vehicle fuel not under pressure, the permitholder may repair the tank once by an interior-coating process if the tank meets all of the following requirements:

(1) One of the following tests has been conducted to determine the thickness of the storage tank:

(A) An ultrasonic test.

(B) Certification by a special inspector that the shell will provide structural support for the interior lining. The special inspector shall make this certification by entering and inspecting the entire interior surface of the tank and shall base this certification upon the following procedures and criteria:

(i) If the tank is made of fiberglass, the tank is cleaned so that no residue remains on the tank wall surface. The special inspector shall take interior diameter measurements and, if the cross-section has compressed more than 1 percent of the original diameter, the tank shall not be certified and shall also not be returned to service. The special inspector shall also conduct an interior inspection to identify any area where compression or tension cracking is occurring and shall determine whether additional glass fiber reinforcing is required for certification before the tank may be lined.

(ii) If the tank is made of steel, the tank interior surface shall be abrasive blasted completely free of scale, rust, and foreign matter, as specified in the American Petroleum Institute's recommended practice 16-31, relating to white metal blasting. The special inspection shall sound any perforations or areas showing corrosion pitting with a brass ballpeen hammer to enlarge the perforation or break through a potentially thin steel area. Tanks that have any of the following defects shall not be certified or returned to service:

(a) A tank which has an open seam or a split longer than three inches.

(b) A tank which has a perforation larger than one and one-half inches in diameter, or a gauging opening larger than two and one-half inches in diameter.

(c) A tank with five or more perforations.

(d) A tank with 20 or more perforations in a 500 square foot area.

(e) A tank with a perforation larger than one-half inch.

(C) A test approved by the board as comparable to the tests specified in subparagraph (A) or (B). If the person conducting the test determines that the test results indicate that the tank has a serious corrosion problem, the local agency may require additional corrosion protection for the tank or may prohibit the permitholder from making the repair.

(2) The material used to repair the tank by an interior-coating process is compatible with the motor vehicle fuel that is stored, as approved by the board by regulation.

(3) The material used to repair the tank by an interior-coating process is applied in accordance with nationally recognized engineering practices, such as the American Petroleum Institute's recommended practice No. 1631 for the interior lining of existing underground storage tanks.

(4) Before the tank is placed back into service following the repair, the tank is tested in the operating condition using the precision test defined by the National Fire Protection Association Pamphlet 329, "Recommended Practice for Handling Underground Leakage of Flammable and Combustible Liquids," as amended, for proving the integrity of an underground storage tank.

(b) The board may adopt regulations, in consultation with the State Fire Marshal, for the repair of underground storage tanks, which may include, but are not limited to, a requirement that a test be conducted to determine whether the interior-coating process has bonded to the wall of the tank. The standards specified in this section shall remain in effect until the adoption of these regulations.

(c) The board shall, by regulation, require that monitoring systems be installed when a repair is made pursuant to subdivision (a). For purposes of this subdivision, "monitoring system" means a continuous leak detection and alarm system which is located in monitoring wells adjacent to an underground storage tank and which is approved by the board.

(d) If there has not been an unauthorized release, as defined in subdivision (a) of Section 25284.4, from an underground storage tank containing motor vehicle fuel not under pressure, the permitholder may line the interior of the tank as a preventative measure. If an unauthorized release occurs from a tank which was lined as a preventative measure, the permitholder shall not reline the tank again.

SEC. 6. Section 25284.5 of the Health and Safety Code is amended and renumbered to read:

25296. (a) If there has been any unauthorized release, as defined in Section 25294 or subdivision (a) of Section 25295, from an underground storage tank containing motor vehicle fuel not under pressure, the permitholder may repair the tank once by an interior-coating process if the tank meets all of the following

requirements:

(1) One of the following tests has been conducted to determine the thickness of the storage tank:

(A) An ultrasonic test.

(B) Certification by a special inspector that the shell will provide structural support for the interior lining. The special inspector shall make this certification by entering and inspecting the entire interior surface of the tank and shall base this certification upon the following procedures and criteria:

(i) If the tank is made of fiberglass, the tank is cleaned so that no residue remains on the tank wall surface. The special inspector shall take interior diameter measurements and, if the cross-section has compressed more than 1 percent of the original diameter, the tank shall not be certified and shall also not be returned to service. The special inspector shall also conduct an interior inspection to identify any area where compression or tension cracking is occurring and shall determine whether additional glass fiber reinforcing is required for certification before the tank may be lined.

(ii) If the tank is made of steel, the tank interior surface shall be abrasive blasted completely free of scale, rust, and foreign matter, as specified in the American Petroleum Institute's recommended practice 16-31, relating to white metal blasting. The special inspection shall sound any perforations or areas showing corrosion pitting with a brass ballpeen hammer to enlarge the perforation or break through a potentially thin steel area. Tanks that have any of the following defects shall not be certified or returned to service:

(a) A tank which has an open seam or a split longer than three inches.

(b) A tank which has a perforation larger than one and one-half inches in diameter, or a gauging opening larger than two and one-half inches in diameter.

(c) A tank with five or more perforations.

(d) A tank with 20 or more perforations in a 500 square foot area.

(e) A tank with a perforation larger than one-half inch.

(C) A test approved by the board as comparable to the tests specified in subparagraph (A) or (B).

If the person conducting the test determines that the test results indicate that the tank has a serious corrosion problem, the local agency may require additional corrosion protection for the tank or may prohibit the permitholder from making the repair.

(2) The material used to repair the tank by an interior-coating process is compatible with the motor vehicle fuel that is stored, as approved by the board by regulation.

(3) The material used to repair the tank by an interior-coating process is applied in accordance with nationally recognized engineering practices such as the American Petroleum Institute's recommended practice No. 1631 for the interior lining of existing underground storage tanks.

(4) Before the tank is placed back into service following the

repair, the tank is tested in the operating condition using the precision test defined by the National Fire Protection Association Pamphlet 329, "Recommended Practice for Handling Underground Leakage of Flammable and Combustible Liquids," as amended, for proving the integrity of an underground storage tank.

(b) The board may adopt regulations, in consultation with the State Fire Marshal, for the repair of underground storage tanks, which may include, but are not limited to, a requirement that a test be conducted to determine whether the interior-coating process has bonded to the wall of the tank. The standards specified in subdivision (a) shall remain in effect until the adoption of these regulations.

(c) The board shall, by regulation, require that monitoring systems be installed when a repair is made pursuant to this section. For purposes of this subdivision, "monitoring system" means a continuous leak detection and alarm system which is located in monitoring wells adjacent to an underground storage tank and which is approved by the board.

(d) If there has not been an unauthorized release, as defined in subdivision (a) of Section 25295, from an underground storage tank containing motor vehicle fuel not under pressure, the permitholder may line the interior of the tank as a preventative measure. If an unauthorized release occurs from a tank which was lined as a preventative measure, the permitholder shall not reline the tank again.

SEC. 7. Section 25287 of the Health and Safety Code is amended and renumbered to read:

25299. (a) Any operator of an underground storage tank shall be liable for a civil penalty of not less than five hundred dollars ($500) or more than five thousand dollars ($5,000) per day for any of the following:

(1) Operates an underground storage tank which has not been issued a permit.

(2) Fails to monitor the underground storage tank, as required by the permit.

(3) Fails to maintain records, as required by Section 25286.

(4) Fails to report an unauthorized release, as required by Sections 25294 and 25295.

(5) Fails to properly close an underground storage tank, as required by Section 25298.

(b) Any owner of an underground storage tank shall be liable for a civil penalty of not less than five hundred dollars ($500) or more than five thousand dollars ($5,000) per day for any of the following:

(1) Failure to obtain a permit as specified by this chapter.

(2) Failure to repair an underground tank in accordance with the provisions of this chapter.

(3) Abandonment or improper closure of any underground tank subject to the provisions of this chapter.

(4) Knowing failure to take reasonable and necessary steps to assure compliance with this chapter by the operator of an

underground tank.

(c) Any person who falsifies any monitoring records required by this chapter, or knowingly fails to report an unauthorized release, shall, upon conviction, be punished by a fine of not less than five thousand dollars ($5,000) or more than ten thousand dollars ($10,000), or by imprisonment in the county jail for not to exceed one year, or by both that fine and imprisonment.

(d) In determining both the civil and criminal penalties imposed pursuant to this section, the court shall consider all relevant circumstances, including, but not limited to, the extent of harm or potential harm caused by the violation, the nature of the violation and the period of time over which it occurred, the frequency of past violations, and the corrective action, if any, taken by the person who holds the permit.

(e) Penalties under this section are in addition to, and do not supersede or limit, any and all other legal remedies and penalties, civil or criminal, which may be applicable under other laws.

(f) In addition to the state and any city or county implementing this chapter pursuant to Section 25283, a city or county specified in subdivision (a) of Section 25299.1 may also levy and collect penalties under this section.

SEC. 8. Section 25288 of the Health and Safety Code is amended and renumbered to read:

25299.1. (a) Any city, county or city and county which prior to January 1, 1984, has adopted an ordinance which, at a minimum meets the requirements set forth in Section 25291 and 25292, providing for double containment, monitoring of underground storage tanks and under which permits are issued therefor is exempt from the provisions of this chapter so long as the ordinance, as it may be amended, continues to meet the requirements of Sections 25291 and 25292.

Those local agencies which are exempted from this chapter pursuant to this subdivision shall submit to the board the application form and annual information specified by Section 25286 and shall submit a written report of any unauthorized release from an underground storage tank to the Office of Emergency Services within 10 working days from the time the local agency is notified of the unauthorized release. Every local agency exempted from this chapter, except a county of the fifth class and the cities within that county, shall, until January 1, 1990, collect and transmit to the board the surcharge specified in subdivision (b) of Section 25287.

(b) This chapter shall not be construed to limit or abridge the authority of any city, county, or city and county to adopt an ordinance requiring information, conducting investigations, inspections, or implementing and enforcing this chapter.

SEC. 9. Section 25288.2 of the Health and Safety Code is amended and renumbered to read:

25299.3. (a) The board shall develop regulations implementing the standards of Sections 25291, 25292, 25294, 25295, 25296, 25298, and

25299.4. These regulations shall be promulgated by the board by January 1, 1985. The board may adopt regulations implementing Sections 25286, 25287, and 25290 as it deems necessary.

(b) Until the board adopts regulations, any city or county may implement Section 25291 with regard to permits. Any tank or facility so permitted shall be deemed to be in compliance with the regulations of the board implementing that section. Any underground storage tank installed within a city or county which has not implemented Section 25291 prior to the adoption of regulations by the board shall be subject to the same requirements of this chapter as an underground storage tank installed prior to January 1, 1984.

Every city and county shall, without undue delay, undertake its regulatory responsibilities under this chapter after the board adopts its regulations pursuant to subdivision (a). Every city and county shall implement this chapter by no later than July 1, 1985.

SEC. 10. Sections 2, 4, and 6 of the bill incorporate amendments to Sections 25284, 25284.1, and 25284.5, of the Health and Safety Code, respectively proposed by both this bill and AB 3565. These sections shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Sections 25284, 25284.1, and 25284.5 of the Health and Safety Code, and (3) this bill is enacted after AB 3565, in which case Sections 1, 3, and 5 of this bill shall not become operative.

SEC. 11. Sections 7, 8, and 9 of this bill shall become operative only if (1) this bill and AB 3565 are enacted, (2) both bills amend Sections 25287, 25288, and 25288.2 of the Health and Safety Code, and (3) this bill is enacted after AB 3565.

SEC. 12. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 13. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1585

An act to amend and renumber Section 23208 of the Vehicle Code, relating to crimes.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 23208 of the Vehicle Code is amended and renumbered to read:

41403. (a) In any proceedings to have a prior judgment of conviction of a violation of Section 14601, 14601.1, 14601.2, 23152, or 23153, or Section 23103 as specified in Section 23103.5, declared invalid on constitutional grounds, the defendant shall state in writing and with specificity wherein the defendant was deprived of the defendant's constitutional rights, which statement shall be filed with the clerk of the court and a copy served on the court that rendered the prior judgment and on the prosecuting attorney in the present proceedings at least five court days prior to the hearing thereon.

(b) Except as provided in subdivision (c), the court shall, prior to the trial of any pending criminal action against the defendant wherein the prior conviction is charged as such, hold a hearing, outside of the presence of the jury, in order to determine the constitutional validity of the charged prior conviction issue. At the hearing the procedure, the burden of proof, and the burden of producing evidence shall be as follows:

(1) The burden of proof remains with the prosecution throughout and is that of beyond a reasonable doubt.

(2) The prosecution shall initially have the burden of producing evidence of the prior conviction sufficient to justify a finding that the defendant has suffered that prior conviction.

(3) After the production of evidence required by paragraph (2), the defendant then has the burden of producing evidence that the defendant's constitutional rights were infringed in the prior proceeding at issue. If the prior conviction sought to be invalidated is based upon a plea of guilty or nolo contendere, the defendant shall provide the court with evidence of the prior plea, including, when available, the court docket, written waivers of constitutional rights executed by the defendant, and transcripts of the relevant court proceedings at the time of the entry of the defendant's plea. These records shall be provided to the defendant without cost to him or her, when the defendant is represented by the public defender or counsel appointed pursuant to Section 987.2 of the Penal Code.

(4) If the defendant bears this burden successfully, the prosecution shall have the right to produce evidence in rebuttal.

(5) The court shall make a finding on the basis of the evidence thus produced and shall strike from the accusatory pleading any prior conviction found to be constitutionally invalid.

(c) If the defendant fails to comply with the notice requirement of subdivision (a) or fails to produce the evidence required by paragraph (3) of subdivision (b), the court shall hear the motion at the time of sentencing in lieu of continuing the trial, unless good

cause is shown for failure to provide notice pursuant to subdivision (a) or produce the evidence required by paragraph (3) of subdivision (b), in which case the court shall grant a continuance of the trial for a reasonable period. The procedure, burden of proof, and burden of producing evidence as provided in subdivision (b) shall apply regardless of when the motion is heard.

SEC. 2. Section 23208 of the Vehicle Code is amended and renumbered to read:

41403. (a) In any proceedings to have a judgment of conviction of a violation of Section 14601, 14601.1, 14601.2, 23152, or 23153, or Section 23103 as specified in Section 23103.5, which was entered in a separate proceeding, declared invalid on constitutional grounds, the defendant shall state in writing and with specificity wherein the defendant was deprived of the defendant's constitutional rights, which statement shall be filed with the clerk of the court and a copy served on the court that rendered that judgment and on the prosecuting attorney in the present proceedings at least five court days prior to the hearing thereon.

(b) Except as provided in subdivision (c), the court shall, prior to the trial of any pending criminal action against the defendant wherein the separate conviction is charged as such, hold a hearing, outside of the presence of the jury, in order to determine the constitutional validity of the charged separate conviction issue. At the hearing the procedure, the burden of proof, and the burden of producing evidence shall be as follows:

(1) The burden of proof remains with the prosecution throughout and is that of beyond a reasonable doubt.

(2) The prosecution shall initially have the burden of producing evidence of the separate conviction sufficient to justify a finding that the defendant has suffered that separate conviction.

(3) After the production of evidence required by paragraph (2), the defendant then has the burden of producing evidence that the defendant's constitutional rights were infringed in the separate proceeding at issue. If the separate conviction sought to be invalidated is based upon a plea of guilty or nolo contendere, the defendant shall provide the court with evidence of the prior plea, including the court docket, written waivers of constitutional rights executed by the defendant, and transcripts of the relevant court proceedings at the time of the entry of the defendant's plea. These records shall be provided to the defendant without cost to him or her, when the defendant is represented by the public defender or counsel appointed pursuant to Section 987.2 of the Penal Code.

(4) If the defendant bears this burden successfully, the prosecution shall have the right to produce evidence in rebuttal.

(5) The court shall make a finding on the basis of the evidence thus produced and shall strike from the accusatory pleading any separate conviction found to be constitutionally invalid.

(c) If the defendant fails to comply with the notice requirement of subdivision (a) or fails to produce the evidence required by

paragraph (3) of subdivision (b), the court shall hear the motion at the time of sentencing in lieu of continuing the trial, unless good cause is shown for failure to provide notice pursuant to subdivision (a) or produce the evidence required by paragraph (3) of subdivision (b), in which case the court shall grant a continuance of the trial for a reasonable period. The procedure, burden of proof, and burden of producing evidence as provided in subdivision (b) shall apply regardless of when the motion is heard.

SEC. 3. Section 2 of this bill incorporates amendment and renumbering of Section 23208 of the Vehicle Code proposed by both this bill and AB 3833. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill affects Section 23208 of the Vehicle Code, and (3) this bill is enacted after AB 3833, in which case Section 1 of this bill shall not become operative.

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

SEC. 5. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1586

An act to amend Sections 68543.5 and 75028 of, to add Sections 68701.5, 75028.1, 75028.2, 75028.3, and 75028.4 to, the Government Code, relating to the Judges' Retirement System.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 68543.5 of the Government Code is amended to read:

68543.5. Whenever a judge retired as such under the Judges' Retirement Law is assigned to sit in a court, he shall be compensated while so sitting at a rate equal to 92 percent of the full compensation of a judge of the court to which he is assigned. A retired judge of a justice court assigned to sit in a court shall be compensated while so sitting at the full compensation of a judge of the court to which he is assigned, or the compensation specified in Section 68541,

whichever is greater. Such compensation shall be chargeable for the period specified in Section 68547 the same as provided by law with respect to the compensation of a judge of the court to which he is assigned except that when chargeable to the state, such compensation is payable out of any appropriation for extra compensation of judges assigned by the Chairman of the Judicial Council.

If such compensation is greater than his retirement allowance, his retirement allowance shall be suspended so long as he receives such compensation. If such compensation is less than his retirement allowance, his retirement allowance shall continue to be paid while he receives such compensation but only in an amount equal to the difference between such compensation and the retirement allowance to which he would otherwise be entitled.

If a judge retired under the Judges' Retirement Law is assigned to sit in a court, the 8-percent difference between the compensation of the retired judge while so assigned and the compensation of a judge of the court to which assigned shall be paid to the Judges' Retirement Fund.

When assigned to sit in a county other than that in which he resides, he shall also be allowed his necessary expenses for travel, board, and lodging incurred in the discharge of the assignment. Such expenses, if any, shall be chargeable as follows:

(a) When the assignment is to the Supreme Court or a court of appeal, to the state.

(b) When the assignment is to a superior, municipal, or justice court, to the county.

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

SEC. 1.5. Section 68543.5 of the Government Code is amended to read:

68543.5. Whenever a judge retired as such under the Judges' Retirement Law is assigned to sit in a court, he shall be compensated while so sitting at a rate equal to 92 percent of the full compensation of a judge of the court to which he is assigned. A retired judge of a justice court assigned to sit in a court shall be compensated while so sitting at the full compensation of a judge of the court to which he is assigned, or the compensation specified in Section 68541, whichever is greater. Such compensation shall be chargeable for the period specified in Section 68547 the same as provided by law with respect to the compensation of a judge of the court to which he is assigned except that when chargeable to the state, such compensation is payable out of any appropriation for extra compensation of judges assigned by the Chairman of the Judicial Council.

If such compensation is greater than his retirement allowance, his

retirement allowance shall be suspended so long as he receives such compensation. If such compensation is less than his retirement allowance, his retirement allowance shall continue to be paid while he receives such compensation but only in an amount equal to the difference between such compensation and the retirement allowance to which he would otherwise be entitled.

If a judge retired under the Judges' Retirement Law is assigned to sit in a court, the 8-percent difference between the compensation of the retired judge while so assigned and the compensation of a judge of the court to which assigned shall be paid to the Judges' Retirement Fund.

When assigned to sit in a county other than that in which he resides, he shall also be allowed his necessary expenses for travel, board, and lodging incurred in the discharge of the assignment. Such expenses, if any, shall be chargeable as follows:

(a) When the assignment is to the Supreme Court or a court of appeal, to the state.

(b) When the assignment is to a superior, municipal, or justice court, to the county.

When assigned to sit in a county in which he resides, he shall be allowed his necessary and reasonable expenses for travel, parking, and board incurred in the discharge of the assignment for and during any period that he waives salary or other compensation except his retirement allowance.

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

SEC. 2. Section 68701.5 is added to the Government Code, to read:

68701.5. Notwithstanding Section 68701, the Commission on Judicial Performance may investigate the conduct or performance of any retired judge serving on senior judge status pursuant to rules adopted by the Judicial Council. The commission also shall have the power to order a retired judges' senior judge status terminated for incapacity or any failure to carry out the duties of the office.

SEC. 3. Section 75028 of the Government Code is amended to read:

75028. (a) Except as provided in Sections 75060.6, 75080, and 68543.5, any designation as a judge pro tempore or any assignment by the Chairman of the Judicial Council shall be disregarded for purposes of this chapter. For the purposes of this chapter no person shall acquire status as a judge, nor shall any person's status as a judge be affected, by any such designation or assignment.

(b) A judge who elects to be available for full-time service on senior judge status after the effective date of retirement, shall be compensated by the state for that time at a rate equal to the full compensation of a judge of the court from which he or she retired

or, at the judge's election, at a rate equal to the full compensation of a judge of the court to which he or she is assigned. A judge serving on senior judge status also shall be eligible for travel, board, and lodging expenses, as provided in Section 68543.5.

SEC. 4. Section 75028.1 is added to the Government Code, to read:

75028.1. At the time of the filing of a notice of retirement effective just prior to age 70, a judge may elect senior judge status which shall continue for a period not to exceed three years. A judge serving on senior judge status shall serve full time as assigned for up to three consecutive years and by accepting that status waives the right to refuse any assignment as otherwise provided by law. A judge who elects to retire under this section is deemed retired, and the judicial office from which the judge retired shall become vacant and a successor shall then be appointed to fill the vacancy.

SEC. 5. Section 75028.2 is added to the Government Code, to read:

75028.2. A retired judge on senior judge status shall not receive a retirement allowance, except for health and welfare benefits generally available to retired judges of courts on which the judge served as an active judge.

The Controller shall administer payment of salary to retired judges on senior judge status and for making any appropriate deductions.

SEC. 6. Section 75028.3 is added to the Government Code, to read:

75028.3. (a) The senior judge status of a retired judge shall be terminated at the end of three years from the effective date of retirement, except that the status shall terminate earlier when:

(1) The retired judge on senior judge status requests termination.

(2) The retired judge fails to perform service as assigned.

(3) The Commission on Judicial Performance so orders.

SEC. 7. Section 75028.4 is added to the Government Code, to read:

75028.4. (a) A judge whose senior judge status is terminated may elect to receive the retirement benefits for which the judge was eligible at the time he or she elected senior judge status.

(b) If the senior judge status is terminated before the end of three years because of the judge's death, any surviving spouse benefit that is payable, as provided in the section under which the judge retired prior to electing the senior judge status, shall be paid.

SEC. 8. Section 1.5 of this bill incorporates amendments to Section 68543.5 of the Government Code proposed by both this bill and AB 3411. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 68543.5 of the Government Code, and (3) this bill is enacted after AB 3411, in which case Section 68543.5 of the Government Code, as amended by AB 3411, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Section 1 of this bill shall not

become operative.

SEC. 9. This act shall become operative on July 1, 1985.

CHAPTER 1587

An act to amend Sections 15026 and 15056 of the Health and Safety Code, relating to seismic safety and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984]

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

SECTION 1. Section 15026 of the Health and Safety Code is amended to read:

15026. (a) "Hospital building" includes any building not specified in subdivision (b) which is used, or designed to be used, for a health facility of a type required to be licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2.

(b) "Hospital building" does not include any of the following:

(1) Any building in which only outpatient clinic services are provided and which is separated from a building in which hospital services are provided.

(2) Any building used, or designed to be used, for a skilled nursing facility or intermediate care facility if the building is of single-story, wood-frame construction.

(3) Any building of single-story, wood-frame construction in which only skilled nursing or intermediate care services are provided if the building is separated from a building housing other patients of the health facility receiving higher levels of care.

(4) Any freestanding structures of a chemical dependency recovery hospital exempted under subdivision (c) of Section 1275.2.

(5) Any building licensed to be used as an intermediate care facility/developmentally disabled habilitative with six beds or less and any intermediate care facility/developmentally disabled habilitative of 7 to 15 beds which is a single-story, wood-frame building.

(6) Any building which has been used as a community care facility licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2 and which was originally licensed to provide that level of care prior to March 7, 1973, if (A) the building complied with applicable building and safety standards at the time of that licensure, (B) the State Director of Health Services, upon application, determines that in order to continue to properly serve the facility's existing client population, relicensure as an intermediate care facility/developmentally disabled will be required, and (C) a notice of intent to obtain a certificate of need was filed with the area health

planning agency and the Office of Statewide Health Planning and Development on or before March 1, 1983. The exemption provided in this paragraph extends only to use of the building as an intermediate care facility/developmentally disabled.

(7) Any building which has been used as a community care facility pursuant to paragraph (1) or (2) of subdivision (a) of Section 1502 and which was originally licensed to provide that level of care if all of the following conditions are satisfied:

(A) The building complied with applicable building and safety standards for a community care facility at the time of that licensure.

(B) The building conforms to the 1973 Edition of the Uniform Building Code of the International Conference of Building Officials as a community care facility.

(C) The facility is other than single story, but no more than two stories, and the upper story is licensed for ambulatory patients only.

(D) A certificate of need was granted prior to July 1, 1983, for conversion of a community care facility to an intermediate care facility.

(E) The facility otherwise meets all nonstructural construction standards for intermediate care facilities in existence on the effective date of this paragraph or obtains waivers from the appropriate agency.

The exemption provided in this paragraph extends only to use of the building as an intermediate care facility, as defined in subdivision (d) of Section 1250, and the facility is in Health Facilities Planning Area 1420.

SEC. 2. Section 15026 of the Health and Safety Code is amended to read:

15026. (a) "Hospital building" includes any building not specified in subdivision (b) which is used, or designed to be used, for a health facility of a type required to be licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2.

(b) "Hospital building" does not include any of the following:

(1) Any building in which only outpatient clinic services are provided and which is separated from a building in which hospital services are provided.

(2) Any building used, or designed to be used, for a skilled nursing facility or intermediate care facility if the building is of single-story, wood-frame or light steel frame construction.

(3) Any building of single-story, wood-frame or light steel frame construction in which only skilled nursing or intermediate care services are provided if the building is separated from a building housing other patients of the health facility receiving higher levels of care.

(4) Any freestanding structures of a chemical dependency recovery hospital exempted under the provisions of subdivision (c) of Section 1275.2.

(5) Any building licensed to be used as an intermediate care facility/developmentally disabled habilitative with six beds or less

and any intermediate care facility/developmentally disabled habilitative of 7 to 15 beds which is a single-story, wood-frame or light steel frame building.

(6) Any building which has been used as a community care facility licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2 and which was originally licensed to provide that level of care prior to March 7, 1973, if (i) the building complied with applicable building and safety standards at the time of that licensure, (ii) the Director of Health Services, upon application, determines that in order to continue to properly serve the facility's existing client population, relicensure as an intermediate care facility/developmentally disabled will be required, and (iii) a notice of intent to obtain a certificate of need was filed with the area health planning agency and the Office of Statewide Health Planning and Development on or before March 1, 1983. The exemption provided in this paragraph extends only to use of the building as an intermediate care facility/developmentally disabled.

(7) Any building which has been used as a community care facility pursuant to paragraph (1) or (2) of subdivision (a) of Section 1502 and which was originally licensed to provide that level of care if all of the following conditions are satisfied:

(A) The building complied with applicable building and safety standards for a community care facility at the time of that licensure.

(B) Conforms to the 1973 Edition of the Uniform Building Code of the International Conference of Building Officials as a community care facility.

(C) The facility is other than single story, but no more than two stories, and the upper story is licensed for ambulatory patients only.

(D) A certificate of need was granted prior to July 1, 1983, for conversion of a community care facility to an intermediate care facility.

(E) The facility otherwise meets all nonstructural construction standards for intermediate care facilities in existence on the effective date of this act or obtains waivers from the appropriate agency.

The exemption provided in this paragraph extends only to use of the building as an intermediate care facility as defined in subdivision (d) of Section 1250 and the facility is in Health Facilities Planning Area 1420.

SEC. 3. Section 15056 of the Health and Safety Code is amended to read:

15056. The statewide office may enter into any agreements and contracts with any qualified person, department, agency, corporation, or legal entity, as determined by the statewide office, when necessary in order to facilitate the timely performance of the duties and responsibilities relating to the review and inspection of architectural, mechanical, electrical, and plumbing systems of hospital buildings to be constructed or altered or buildings under construction or alteration.

If the Chief Structural Engineer of the Department of General

Services determines that the structural review of plans for a hospital building cannot be completed without undue delay, the statewide office shall have the authority, with the written concurrence of the Department of General Services, to enter into contractual agreements with private structural engineers or local governments for the purpose of facilitating the timely performance of the duties and responsibilities relating to the review and inspection of plans and specifications of the structural systems of hospital construction projects.

The statewide office, with the advice of the Building Safety Board, shall prepare regulations, containing qualification criteria, for implementing the contractual agreement provisions of this section.

SEC. 4. The Legislature finds and declares that the amendments to Section 15026 of the Health and Safety Code made by Sections 1 and 2 of this act are necessary to permit certain community care facilities, which were licensed to provide that level of care, to obtain licensure as intermediate care facilities in order to continue to properly serve their aging client populations. Reconstructing the physical plant of these facilities would be too costly to be economic and would also be disruptive to residents of the facility. Without the changes proposed in Section 15026, clients receiving satisfactory care for many years will be forced to relocate to another facility, with attendant disruption, or receive care at less than an optimum level. It is, therefore, the intent of the Legislature to permit these facilities to continue to provide adequate care for their client populations by permitting these facilities to obtain relicensure as intermediate care facilities without being required to comply with seismic design requirements for health facilities.

SEC. 5. It is the intent of the Legislature, if this bill and AB 3993 are both chaptered and become effective on or before January 1, 1985, both bills amend Section 15026 of the Health and Safety Code, and this bill is chaptered after AB 3993, that Section 15026 of the Health and Safety Code, as amended by Section 1 of this act shall remain operative only until the operative date of AB 3993, and that on the operative date of AB 3993 Section 15026 of the Health and Safety Code as amended by Section 1 of this act be further amended in the form set forth in Section 2 of this act to incorporate the changes in Section 15026 proposed by AB 3993. Therefore, Section 2 of this act shall become operative only if this bill and AB 3993 are both chaptered and become effective on or before January 1, 1985, both bills amend Section 15026, and this bill is chaptered after AB 3993, in which case Section 2 of this act shall become operative on the operative date of AB 3993.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

It is necessary to amend the law to expedite the implementation of the Hospital Seismic Safety Act of 1982 and to permit certain

community care facilities, which were licensed to provide that level of care, to obtain licensure as an intermediate care facility in order to continue to properly serve their aging client populations. Reconstructing the physical plant of these facilities would be too costly to be economic and would also be disruptive to residents of the facility who will be forced to relocate to another facility.

CHAPTER 1588

An act to amend and supplement the Budget Act of 1984 by adding Item 3810-302-722 thereto, relating to the Santa Monica Mountains Conservancy, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Item 3810-302-722 is added to the Budget Act of 1984, to read:

PARKLANDS ACQUISITION AND DEVELOPMENT PROGRAM OF 1984

3810-302-722—For capital outlay and local assistance, Santa Monica Mountains Conservancy, payable from the Parklands Fund of 1984 750,000

Provisions:

1. The funds appropriated in this item shall be used for recreational facilities along the Rim of the Valley Trail, as specified in Section 33105.5 of the Public Resources Code, which are usable by residents of the San Fernando Valley.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide recreational opportunities within fiscal limitations to the people of California at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1589

An act to amend and supplement the Budget Act of 1984 by adding Item 3640-302-748 thereto, relating to acquisition of public resources, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Item 3640-302-748 is added to the Budget Act of 1984, to read:

FISH AND WILDLIFE HABITAT ENHANCEMENT PROGRAM

3640-302-748—For capital outlay, Wildlife Conservation Board, payable from the Fish and Wildlife Habitat Enhancement Fund		$12,100,000
Schedule:		
(a) Acquisition, enhancement, or development of lands located outside the coastal zone for habitat for wildfowl and other wildlife benefited by a marsh or aquatic habitat	4,000,000	
(b) Restoration of waterways located outside the coastal zone for the management of fisheries and the enhancement or development of habitat for other wildlife	3,000,000	
(c) Acquisition, enhancement, or development of lands for habitat for rare, endangered, or fully protected species	2,000,000	
(d) Acquisition, enhancement or development of marsh lands and adjacent lands inside the coastal zone for habitat for wildlife benefited by a marsh or aquatic habitat	3,000,000	
(e) Project planning and administration	100,000	

Provision:

1. All funds appropriated in this item are provided in accordance with the Wildlife Conservation Law of 1947 (Chapter 4 (commencing with Sec-

tion 1300) of Division 2 of the Fish and Game Code), and, therefore, are not subject to Public Works Board review.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for the acquisition of fish and wildlife habitat at the lowest possible cost, it is necessary that this act take effect immediately.

CHAPTER 1590

An act to add Article 6.5 (commencing with Section 51755) to Chapter 5 of Part 28 of the Education Code, relating to education.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Article 6.5 (commencing with Section 51755) is added to Chapter 5 of Part 28 of the Education Code, to read:

Article 6.5. Nuclear Age Education Curriculum

51755. The Legislature finds and declares as follows:

(a) The discovery of nuclear power has profound implications for our lives and society.

(b) Current research has demonstrated that many of our children today fear the prospect of nuclear war, and it is now recognized that their frequent lack of motivation, particularly in school, is substantially influenced by further fears that there will be no future for themselves, their families, their communities, and their nation.

(c) Some polls have shown that the majority of high school students believe that nuclear war in the next decade is inevitable.

(d) If left unchecked, this lack of motivation and the feelings of helplessness could prove to be as devastating to American society as war itself.

(e) It is the inherent right of our children to pursue their educational objectives free from the immobilizing threat of nuclear war and their own annihilation.

51756. The Legislature further finds and declares as follows:

(a) Through their curricula, our public schools traditionally provide our children with an understanding and appreciation of personal values, and a sense of human community.

(b) It is the responsibility of our public educational system, in

conjunction with parents, to intellectually and emotionally prepare our students to understand and cope with reality, including the facts of life in the nuclear age, the threat of nuclear war and annihilation, and the dangers of radiation.

(c) Our public schools provide an appropriate forum for discussion of the personal, environmental, social, political, and military aspects of life in the nuclear age. These discussions make a valuable contribution to students' development into informed, self-assured, responsible, decisionmaking adults.

(d) It is also the responsibility of our public educational system to provide students with an understanding of the causes of conflict among nations and the options for conflict resolution and the attainment of peace.

(e) Many parents, acting out of concern for their children's current and future welfare, are already seeking formal and informal assistance in providing their children with the tools for coping with life in the nuclear age.

(f) Organizations in many states, including California, are already collecting information on nuclear age education curricula designed to meet the needs of students for accurate information on international relations, nuclear war, the causes of war, and available options, including conflict resolution, in the nuclear age, as well as beneficial peacetime uses of nuclear power.

(g) The State Department of Education is best suited to the task of collecting information from various research and educational groups across the country, to make objective assessments of the value of specific components of a curriculum, and to develop a model nuclear age education curriculum.

51757. (a) The State Department of Education shall conduct a survey to review current efforts of school districts to provide nuclear age education. The survey shall include, but not be limited to, all of the following information:

(1) Students' beliefs, attitudes, and feelings regarding life in the nuclear age.

(2) The needs, if any, of students with respect to nuclear age education. Special attention shall be given to methods which students may use to creatively cope with their fears concerning nuclear war.

(3) Each school district's perception of the value of a model nuclear age education curriculum.

(4) The current efforts of each school district to develop and present a nuclear age education curriculum.

(5) Model nuclear age education programs already operating in California.

(b) The department shall also collect other information relevant to the development of a model nuclear age education curriculum, including, but not limited to, studies, experiences, research, and reports of educational organizations, scientific groups, and psychologists regarding the effects of the nuclear age upon children.

(c) The department shall also seek information from concerned parents, teachers, students, and members of the community regarding whether and how a nuclear age education curriculum should be developed, and shall ensure that all points of view are presented.

(d) On or before June 30, 1985, the department shall submit to the Legislature its findings and recommendations with respect to all of the following:

(1) Whether the Legislature should proceed to develop a program to make nuclear age education more widely available in the public schools.

(2) If the recommendation made pursuant to paragraph (1) is positive, the best method for achieving that result.

CHAPTER 1591

An act to amend Sections 44014 and 44021 of, and to add Article 6 (commencing with Section 44070) to Chapter 5 of Part 5 of Division 26 of, the Health and Safety Code, relating to vehicle inspections, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

I am deleting the $250,000 appropriation contained in Section 4 of Senate Bill No. 1798.

This appropriation is unnecessary since both the Bureau of Automotive Repair and the Air Resources Board are currently staffed and funded to perform the necessary data gathering and analysis functions to evaluate the vehicle inspection program

With this deletion, I approve Senate Bill No. 1798.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 44014 of the Health and Safety Code is amended to read:

44014. (a) The testing portion of the program shall be conducted by automotive test stations licensed by the department, and by test mechanics who have qualified by completing courses prescribed by the department, pursuant to this chapter.

(b) The repair portion of the program shall be conducted by repair stations licensed by the department, and by repair mechanics who have qualified by completing courses prescribed by the department, pursuant to this chapter if the repairs are performed for compensation.

(c) The consumer protection-oriented quality assurance portion of the program shall be conducted by more than one private entity

pursuant to contracts with the department.

(d) The department shall not issue a license to a test station or a repair station which is located 15 or more miles outside of the area to be covered by the program, as specified in Section 44003.

SEC. 2. Section 44021 of the Health and Safety Code is amended to read:

44021. (a) The department shall conduct ongoing cost benefit analyses and other evaluations of the inspection program, including, but not limited to, observed patterns of malfunctions in inspected motor vehicles' emissions control systems, inquiries from the public regarding emissions system warranties, inspection and repair costs, the failure rate after repairs, and recommendations for legislation to improve the inspection program.

Commencing not later than two years after the date of implementation of the program, the department shall submit periodic written reports, at least every 12 months, to the Legislature on the analyses and evaluations of the program. The department shall conduct at least one public hearing prior to submitting the first report and shall include pertinent information which it receives from the public hearing in that report.

(b) A review committee is hereby created to analyze the effect of the program on vehicle emissions and air quality. The review committee shall consist of a representative from the state board and a representative from each of the districts in which the motor vehicle inspection program has been implemented. The committee shall conduct at least one public hearing prior to submitting its report to the Legislature and shall include pertinent information which it receives from the public hearings in its report. The first report shall be submitted not later than 36 months following the implementation of the program. Thereafter, the committee shall submit periodic written reports to the Legislature on the program at least every 24 months.

The committee's report shall quantify the reduction in emissions and improvement in air quality attributed to the program. If the study determines that the average reduction in emissions of hydrocarbons and carbon monoxide from inspected vehicles is less than 10 percent, the report shall recommend improvements to increase the effectiveness of the program. If the committee cannot identify and recommend improvements to the program to achieve emissions reductions of at least 10 percent, the report shall recommend termination of the program.

SEC. 3. Article 6 (commencing with Section 44070) is added to Chapter 5 of Part 5 of Division 26 of the Health and Safety Code, to read:

Article 6. Public Information

44070. (a) The department shall develop within the Bureau of Automotive Repair, with the advice and technical assistance of the

state board, a public information program for the purpose of providing emissions warranty information to motor vehicle owners subject to an inspection and maintenance program required pursuant to this chapter. The bureau shall provide, upon request, either orally or in writing, information regarding emissions related warranties and available warranty dispute resolution procedures.

(b) The telephone number and business hours, and the address if appropriate, of the emissions warranty information program shall be noticed on the vehicle inspection report provided by the test analyzer system for any vehicle which fails the analyzer test.

44071. For purposes of implementing the emissions warranty information program, the department shall use funds from the fee charged for each certificate of compliance or noncompliance which are deposited in the Vehicle Inspection Fund pursuant to Section 44060.

SEC. 4. The sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated from the Vehicle Inspection Fund to the State Air Resources Board to contract on behalf of the review committee established by subdivision (b) of Section 44021 of the Health and Safety Code for the performance of the analyses necessary for the reports and recommendations required by subdivision (b) of Section 44021 of the Health and Safety Code.

CHAPTER 1592

An act to add Article 12 (commencing with Section 33470) to Chapter 3 of Part 20 of the Education Code, relating to intergenerational education programs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

I am reducing the appropriation contained in Section 4 of Senate Bill No 2039 from $300,000 to $165,000 by deleting the $135,000 appropriation contained in subdivision (b), and deleting the language contained in subdivision (c).

The Department of Education should provide the necessary evaluation of the ongoing projects before additional funds for new projects are made available.

With this reduction and deletion, I approve Senate Bill No. 2039.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. This act shall be known and may be cited as the Roberti Intergenerational Education Act of 1984.

SEC. 2. The Legislature hereby finds and declares the following:

(a) There are now 3.5 million persons 60 years of age or over in California. The older population of the state is expanding rapidly. In 50 years, one in every five Americans will be over 65 years of age.

(b) With this dramatic expansion of the older population, society will face and is already facing new challenges in the care and support of this "new generation" of Americans, including new needs in health care, housing, nutrition, transportation, employment, and other areas.

(c) In preparing to serve these needs, society must discover new ways to include the older citizen in the ongoing business of the community, serving both to stave off loneliness and isolation for the senior citizen and to utilize the valuable experience he or she has to offer the other citizens of the community.

(d) Chief among those who could benefit in a variety of ways from interaction with older citizens are elementary school and high school students, many of whom lack the influence of an older person in their lives, and who could profit from that influence and interaction.

(e) Intergenerational programs, especially those which involve senior citizens in the public schools, are useful in providing youth the opportunity to learn from older citizens, in helping senior citizens remain active in the community, and in some cases in aiding senior citizens to supplement their incomes.

(f) The State Department of Education, recognizing the value of these programs, has facilitated the use of 11 intergenerational projects in the state's public schools which utilize senior citizens in the learning process.

(g) It is necessary to provide for the continuation of these programs and to expand the department's intergenerational programs to include new projects to benefit California communities.

SEC. 3. Article 12 (commencing with Section 33470) is added to Chapter 3 of Part 20 of the Education Code, to read:

Article 12. Intergenerational Education Programs

33470. The State Department of Education shall administer intergenerational education programs in accordance with this article.

33471. The State Department of Education shall establish criteria for the allocation of funds to intergenerational education programs. These criteria shall include all of the following:

(a) The programs shall involve persons over 55 years of age in projects with elementary or secondary public school pupils.

(b) The programs shall, when possible, involve creative and innovative approaches to teaching and intergenerational interaction.

(c) The programs may, and are encouraged to, provide a minimum salary or stipend or transportation costs, or both, to participating senior citizens. The programs shall consider financial need of prospective participating senior citizens as one factor in selection, but not necessarily to the exclusion of other factors such as

experience or special skills.

(d) The programs shall comply with in-kind services or cash matching requirements established by the State Department of Education.

(e) The programs shall provide evidence of their commitment to procure community, corporate, and other support, including funding.

33471.5. The State Department of Education may allocate funds pursuant to this article to intergenerational education programs which operate without regard to school district boundaries.

33472. The State Department of Education shall, by January 1, 1985, evaluate the intergenerational programs which it administers and which are in operation prior to January 1, 1985, and shall determine whether those projects have been successful and whether they warrant further support. It is the intent of the Legislature to provide funding to those programs which have previously proved successful, and the State Department of Education shall require continuation of contract requirements such as matching of funds or provision of in-kind services, and any other provisions determined necessary by the State Department of Education.

33473. The State Department of Education may consult with the Department of Aging and the Commission on Aging regarding the criteria for selection of programs.

SEC. 4. The sum of three hundred thousand dollars ($300,000) is hereby appropriated from the General Fund to the State Department of Education, for allocation for the 1984–85 fiscal year as follows:

(a) To continue the operation of intergenerational education programs in existence, and administered by the State Department of Education, prior to the effective date of this act, and which warrant further support based on a demonstrated successful program implementation, at a maximum rate of fifteen thousand dollars ($15,000) per grant.....	$165,000
(b) To provide funding to intergenerational education programs, other than those specified in subdivision (a), at a maximum rate of fifteen thousand dollars ($15,000) per grant....	$135,000
(c) Any funds unexpended and unencumbered as a result of an evaluation of the effectiveness of intergenerational programs funded pursuant to subdivision (a) may be expended for intergenerational programs pursuant to subdivision (b).	

Any unencumbered funds remaining at the end of the 1984–85 fiscal year may be carried over and expended in the 1985–86 fiscal year.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to facilitate the operation of intergenerational education programs selected for continued support, it is necessary that this act take effect immediately.

CHAPTER 1593

An act to add and repeal Article 2.5 (commencing with Section 12786) of Chapter 2 of Division 7 of the Food and Agricultural Code, relating to agriculture, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

I am deleting the $50,000 appropriation contained in Section 6(b) of Assembly Bill No. 3761 for the support of activities related to the certified farmers' markets These activities are not essential to the continued success of the certified farmers' markets in California and should more appropriately be funded by resources other than the General Fund.

With this deletion, I approve Assembly Bill No. 3761.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Article 2.5 (commencing with Section 12786) is added to Chapter 2 of Division 7 of the Food and Agricultural Code, to read:

Article 2.5. Agricultural Pest Control Research

12786. The Legislature hereby finds and declares all of the following:

(a) The continued viability of the agricultural economy is of paramount importance to the people of California.

(b) The development of alternatives to existing pesticides available for the control of pests is prudent, and the development of alternatives to pesticides, such as ethylene dibromide (EDB), is important for the protection of the public health and safety.

(c) The ability of the state to control, detect, exclude, and eradicate pest infestations is necessary to continue the preeminent position of this state as the leading farm state and is essential for the continuing supply of foodstuffs.

12786.5. "Committee" means the Pest Control Research Committee.

12787. The department shall undertake the administration of a program to fund an agricultural pest control research program. The funds shall be allocated pursuant to this article.

12787.5. The purpose of the program is to provide specific funds to direct research projects concerning the control of pests which pose a significant threat to the welfare of California's agricultural economy and citizenry.

12788. (a) The specific purposes of the program include all of the following:

(1) The identification and development of alternative systems for the detection, exclusion, eradication, and control of pests.

(2) The identification and development of alternative chemicals, control devices, programs for selective use of pesticides, biological control agents and techniques, and other integrated pest management components for use regarding pests.

(3) The identification and development of alternative chemicals, control devices, and techniques which may be available to replace EDB and other pesticides.

(b) The research on EDB alternatives is the first priority of the program.

12788.5. The director shall establish a Pest Control Research Committee in the department to review submitted research proposals that are consistent with the purposes of this article and to make funding recommendations to the director.

12789. The committee shall also advise the director on the availability of alternative pest control techniques, on the status of the development of alternatives to EDB as a postharvest fumigant, and on other pesticides commonly used for the control or eradication of California's pests. The alternatives shall be economically, environmentally, and scientifically feasible.

12789.5. The committee shall consist of the following 20 members:

(a) The director, who shall be the chairperson.

(b) One representative of the State Department of Health Services appointed by the director thereof.

(c) One representative of the Department of Industrial Relations appointed by the director thereof.

(d) One representative of the State Water Resources Control Board appointed by the board.

(e) The Chairman of the Assembly Committee on Agriculture and the Chairman of the Senate Committee on Agriculture and Water Resources, who shall participate in the activities of the committee to the extent that the participation is not incompatible with their duties as Members of the Legislature.

(f) One member appointed by the Speaker of the Assembly and one member appointed by the Senate Committee on Rules, both of whom have experience in the area of agricultural pesticides.

(g) Two members from the University of California appointed by the President of the University of California, at least one of whom is

from the Cooperative Extension Service.

(h) One member appointed by the Chancellor of the California State University.

(i) Nine members appointed by the director, each of whom has experience in agricultural production, agricultural product storage, agricultural science, food processing, food retailing, or labor.

12790. Proposals for research consistent with the purposes of this article may be submitted to the committee by any person, organization, institution, or governmental agency.

12790.5. (a) After preliminary review, the committee shall submit those proposals which meet the purposes of this article, and which the committee feels have the greatest possible merit, to a scientific peer review panel.

(b) Each panel shall consist of three scientists who have demonstrated expertise in the area to be researched and who have demonstrated their capability of making judgmental decisions regarding research grant proposals.

(c) The director, in consultation with the committee, shall appoint each panel and shall appoint a sufficient number of panels to review the proposals to be submitted.

12791. (a) The scientific peer review panel members shall use the following criteria in evaluating the proposals received from the committee:

(1) The proposal has a high probability of contributing to important discoveries or breakthroughs.

(2) The proposal will not significantly or extensively duplicate other research or other developments.

(3) The proposal has a well-qualified project leader, the necessary support and technical staff, and adequate facilities and equipment.

(4) The proposal has specific performance standards included for administration and funding.

(5) The proposal has scientific merit.

(b) Additional criteria may be considered and adopted by the committee.

12791.5. The scientific peer review panel shall provide a written report to the committee. The report shall evaluate each proposal and provide recommendations on the proposals reviewed by the panel.

12792. (a) The committee shall vote on whether or not to approve each research proposal. Approval of a research proposal shall be by a two-thirds vote of the full membership of the committee.

(b) If a proposal is not approved at a meeting of the committee, the director may order that the proposal be reconsidered and send a ballot by mail to committee members for a second vote to determine whether or not the proposal is to be approved or rejected. This vote shall be the final vote on the proposal. The ballot, if it is sent, shall include a summary of the debate that was conducted when the proposal was considered at a meeting of the committee.

12792.5. (a) The director shall not disburse any funds for any

proposal unless it has been reviewed by a scientific peer review panel and approved by the committee.

(b) The director shall disburse the funds for any approved proposal only in accordance with the instructions of the committee. However, the director is not required to adopt or fund any approved proposal.

12793. The director may enter into research contracts to fund approved proposals. The contracts shall include reasonable accountability requirements, such as performance standards, deadlines, and payments conditioned on compliance with performance standards and deadlines.

12793.5. Any member of the committee who is absent from two consecutive meetings is deemed to have resigned as a member of the committee. The appointing authority for the vacant position shall fill the vacancy within 30 days.

12794. Members of the committee and scientific peer review panels may receive per diem and mileage for attending meetings and other activities authorized by the committee and approved by the director in accordance with the rules of the State Board of Control.

12794.5. The committee shall prepare an annual report of the research projects proposed, approved contracts awarded, the status of ongoing research projects, and findings achieved from completed research projects. The committee shall also report on its progress in developing alternatives to EDB. The report shall be submitted annually not later than February 1 to the director and the Legislature.

12795. The development and availability of alternatives to EDB shall be submitted in a final report to the director and the Legislature, as soon as practicable, but not later than December 31, 1988.

12795.6. Any additional funds necessary to implement this article shall be appropriated annually in the Budget Act.

12796. This article shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1989, deletes or extends that date.

SEC. 2. The Legislature hereby finds and declares all of the following:

(a) The direct market program was established by the Department of Food and Agriculture in 1976 to assist the direct marketing of agricultural commodities by the farmer to the consumer.

(b) Direct marketing benefits farmers by providing them with an additional outlet for their crops and by increasing their margin of profit by eliminating many of the costs incurred through the traditional marketing system.

(c) Direct marketing benefits consumers by providing them with the opportunity to buy fresh agricultural commodities directly from farmers at competitive prices.

(d) The number of certified farmers' markets in California has quadrupled in the last five years, indicating their steadily growing popularity with farmers and consumers.

(e) Farmers and managers at certified farmers' markets need quantitative data on the actual costs and benefits of direct marketing in order to make decisions that provide the greatest benefit to participating farmers and consumers.

SEC. 3. (a) The Director of Food and Agriculture shall collect, analyze, and disseminate statistics and other information which relate to the marketing of farm products at certified farmers' markets. The statistics and other information shall be collected from a representative sample of certified farmers' markets statewide over a sufficient period of time to ensure that the information obtained is accurate and useful. The statistics and other information shall be collected, published, and disseminated weekly.

(b) After the program conducted pursuant to subdivision (a) has concluded, the director shall survey markets and producers to determine the need and effectiveness of information provided to those farmers marketing their product at certified farmers' markets selected pursuant to subdivision (a).

(c) Notwithstanding any other law, information collected from individual farmers by the director pursuant to this act is confidential and shall not be released to the public except in aggregate form.

SEC. 4. (a) The Director of Food and Agriculture shall consult with farmers who sell through certified farmers' markets, representatives of certified farmers' markets, county agricultural commissioners, representatives of agricultural wholesale or brokerage firms, representatives of retail food stores, the Assembly Committee on Agriculture, the Senate Committee on Agriculture and Water Resources, and the Department of Consumer Affairs in carrying out Sections 2, 3, and 4 of this act.

(b) The collection of market information and the survey described in Section 3 of this act shall be carried out during 1985.

SEC. 5. The Director of Food and Agriculture shall report the findings of the survey prepared pursuant to Section 3 of this act to the Assembly Committee on Agriculture and the Senate Committee on Agriculture and Water Resources on or before January 1, 1986.

SEC. 6. The sum of one million two hundred thirty-six thousand dollars ($1,236,000) is hereby appropriated from the following designated funds to the Department of Food and Agriculture in accordance with the following schedule:

Schedule:

(a) Agricultural Pest Control Research Account in the Department of Food and Agriculture Fund

(1) Pesticide alternative research pur-

suant to Article 2.5 (commencing with Section 12786) of Chapter 2 of Division 7 of the Food and Agricultural Code	550,000
(2) Exotic pest research pursuant to Article 2.5 (commencing with Section 12786) of Chapter 2 of Division 7 of the Food and Agricultural Code	500,000
(3) Administrative costs relating to the Ethanol Fuel Revolving Account as specified in Section 7 of this act.....	57,000
(4) Pro rata charges assessed to the Ethanol Fuel Revolving Account ..	67,000
(5) Per diem and mileage costs for Pest Control Research Committee and scientific peer review panel members incurred pursuant to Article 2.5 (commencing with Section 12786) of Chapter 2 of Division 7 of the Food and Agriculture Code	12,000
(b) General Fund	
(1) Costs of carrying out Sections 2, 3, 4, and 5 of this act ..	50,000

SEC. 7. The Department of Food and Agriculture shall utilize the funds appropriated in paragraph (3) of subdivision (a) of the

schedule contained in Section 6 of this act in order to collect outstanding payments on loans made from the Ethanol Fuel Revolving Account and to prepare a final report to the Legislature on the program results. The funds appropriated in paragraph (3) of subdivision (a) of the schedule contained in Section 6 of this act constitute a maximum appropriation and the department may only expend the full amount if it is necessary to do so in order to comply with this section.

CHAPTER 1594

An act to add Sections 10506, 10506.5, and 10507 to, and to add and repeal Section 10505 of, the Government Code, relating to governmental audits and auditors, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

I am deleting the appropriation language contained in Section 4 of Assembly Bill No. 2185 which would provide that the Auditor General Fund is continuously appropriated to the Auditor General.

I believe that if the Auditor General's budget is to be considered outside of the Legislature's Contingent Fund, it should be treated in a manner similar to that of other state agencies.

With this deletion, I approve Assembly Bill No. 2185.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 10505 is added to the Government Code, to read:

10505. (a) There is hereby established in the State Treasury the Auditor General Fund. Notwithstanding Section 13340, the Auditor General Fund is continuously appropriated for the expenses of the Auditor General.

(b) The amount necessary to reimburse the Auditor General Fund for the cost of audits actually made that are required by statute or regulations, but not to exceed four million dollars ($4,000,000), is hereby appropriated from the General Fund to the Auditor General Fund. Upon certification by the Auditor General of estimated costs on a monthly basis, the Controller shall transfer the amount thus certified from the General Fund to the Auditor General Fund.

(c) From funds appropriated for support of the Legislature, up to four million dollars ($4,000,000), allocated as follows, shall be transferred to the Auditor General Fund for the cost of audits not required by statute or regulations:

(1) The unexpended portion of the amount allocated to the office

of the Auditor General by Resolution Chapter 34 of the Statutes of 1983.

(2) Funds from the Senate Contingent Fund as approved by the Senate Rules Committee.

(3) Funds from the Assembly Contingent Fund as approved by the Assembly Rules Committee.

(d) "Cost of audits," as used in this section, shall include all direct and indirect costs of conducting the audits and any other related expenses incurred by the Auditor General in fulfilling his or her statutory responsibilities.

(e) The Controller shall issue warrants drawn against the Auditor General Fund upon receipt of claims certified by the Auditor General.

(f) This section shall become operative on July 1, 1984, and shall become inoperative on July 1, 1985, and, as of January 1, 1986, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1986, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 10506 is added to the Government Code, to read:

10506. Upon request from the Director of Finance, the Controller shall transfer the following amounts to the General Fund for reimbursement of the amounts appropriated pursuant to Sections 10505 and 10507:

(a) From each special fund from which appropriations otherwise may be made to pay the cost of audits conducted by the Auditor General of state agencies supported by that special fund, an amount not to exceed the amount necessary to pay the cost of audits incurred on and after July 1, 1984.

(b) From the Federal Trust Fund in the State Treasury and the designated account or program within the fund, an amount equal to the cost of audits required by federal law or regulation incurred on or after July 1, 1984, by the Auditor General.

SEC. 3. Section 10506.5 is added to the Government Code, to read:

10506.5. (a) There is appropriated to the Contingent Funds of the Assembly and Senate for immediate payment to the Auditor General Fund, from each special fund from which appropriations otherwise may be made to pay the cost of audits of state agencies supported by the fund conducted by the Auditor General, the amount necessary to pay the cost of audits actually made.

(b) There is appropriated from the Federal Trust Fund in the State Treasury to the Contingent Funds of the Assembly and Senate for immediate payment to the Auditor General Fund, an amount equal to the cost of audits required by federal law or regulation and conducted by the Auditor General.

(c) This section shall be limited to the cost of audits incurred prior to July 1, 1984.

SEC. 4. Section 10507 is added to the Government Code, to read:

10507. (a) There is hereby established in the State Treasury the

Auditor General Fund. Notwithstanding Section 13340, the Auditor General Fund is continuously appropriated for the expenses of the Auditor General. There is appropriated continuously to the Auditor General Fund, from the General Fund, the amount necessary to reimburse the Auditor General Fund for the cost of audits actually made. Appropriations for support of the Legislature shall reimburse the General Fund annually for the cost of audits not required by statute or regulations. "Cost of audits" shall include all direct and indirect costs of conducting the audits and any other related expenses incurred by the Auditor General in fulfilling his or her statutory responsibilities. In any fiscal year, the amount appropriated by this subdivision from the General Fund for the expenses of the Auditor General shall not exceed the amount appropriated in the annual Budget Act.

(b) Upon certification by the Auditor General of estimated costs on a monthly basis, the Controller shall transfer the amount thus certified from the General Fund to the Auditor General Fund. The Controller shall thereafter issue warrants drawn against the Auditor General Fund upon receipt of claims certified by the Auditor General.

(c) This section shall become operative on July 1, 1985.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to insure that the costs of audits performed by the Auditor General are accurately accounted for and reported as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1595

An act to add and repeal Chapter 7.8 (commencing with Section 25680) of Division 15 of the Public Resources Code, relating to energy resources, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

I am deleting the appropriation language contained in Public Resources Code Section 25690 of Assembly Bill No. 3897 which would provide that in the event that all or a part of the $1 million appropriation from the Energy Resources Program Account for the 1984–85 fiscal year is unavailable, the balance of the appropriation should be made from the General Fund, not to exceed $1 million from both sources during the 1984–85 fiscal year.

I do not believe that the General Fund is a proper source of funding for this program.

With this deletion, I approve Assembly Bill No. 3897.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Chapter 7.8 (commencing with Section 25680) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 7.8. ENERGY TECHNOLOGIES RESEARCH, DEVELOPMENT, AND DEMONSTRATION

25680. This chapter shall be known and may be cited as the Rosenthal-Naylor Act of 1984.

25681. The Legislature hereby finds and declares all of the following:

(a) Additional energy supplies will be needed in the near future, in order to serve an increasing number of citizens.

(b) Energy sources should be developed which provide power at the lowest competitive cost to the ratepayer, which increase energy independence and system reliability through use of California's indigenous resources, which provide environmental benefits, and which build the state's economy.

(c) California's continued leadership in new energy technology research, development, and demonstration projects requires an active partnership between the public and private sectors, as well as flexible public financing tools which are responsive to changing technological events and commercialization impediments.

(d) The use of California's indigenous energy resources and alternative energy technologies can be made more efficient and cost-effective through increased research, development, and demonstration and can contribute to stabilizing and potentially reducing near-term energy costs for industry, agriculture, local governments, and individual citizens.

(e) Renewable energy sources can help lower the cost of energy if research, development, and demonstration efforts emphasize shortrun and longrun cost effectiveness.

(f) Advanced energy technologies have inherent financial and technical risks which limit necessary and important research, development, and demonstration in those areas without state involvement.

(g) State government can accelerate widespread market acceptance of new energy technologies by providing assistance to a limited number of projects with the intent of overcoming impediments, demonstrating technologies, and offering successful models for the private sectors to duplicate on its own.

(h) Increasing the efficiency and cost-effectiveness of existing and new energy sources will provide benefits to California citizens beyond energy costs. It will contribute to reduction of the state's dependence on foreign energy sources, stimulate the state economy,

make our energy system more resilient and reliable, and continue to provide a healthier environment for our citizens.

(i) Loans offer an efficient, effective means of providing an economic incentive with distinct limits to stimulate energy project development for a broader range of market (end-use) applications, since the funds can be used more than once.

(j) Loans present a more efficient use of funds, allowing the state to achieve more from the original budget allocation, and to meet goals and objectives established in long-term energy policies approved in each fiscal year budget.

(k) Loans offer the state a mechanism to benefit from cofunding an energy project that encounters initial high capital costs followed by considerable net revenues use once the project is in operation.

(*l*) Loans strengthen the continuity of the state government's commitment from year to year and maintain the ability to share the costs of project development.

25682. For purposes of this chapter:

(a) "Account" means the Energy Technologies Research, Development, and Demonstration Account.

(b) "Alternative sources of energy" includes, but is not limited to, geothermal, hydroelectric power equal to or less than 5 megawatts, photovoltaics, wind, biomass, cogeneration, solar thermal, fuel cells, and energy efficiency measures.

(c) "Contract research funding" means funding for the research, development, or demonstration of energy technologies which are not yet commercially available, which will not result in the generation of net revenues, and where the risk of involvement by the private sector is so high that a loan cannot be obtained to perform the work.

25683. There is hereby created in the General Fund, to be administered by the commission, the Energy Technologies Research, Development, and Demonstration Account for the purpose of carrying out this chapter.

The Controller shall deposit in the account all moneys appropriated to the account by the Legislature, plus accumulated interest on those moneys, and moneys from loan repayments and loan interest repayments for use by the commission for financing energy research, demonstration, or development projects in accordance with this chapter.

25684. The commission shall make loans and may provide contract research funding from the account for the purposes of making energy technologies more efficient and cost-effective, and to develop new cost-effective alternative sources of energy. The commission shall select recipients through a procedure using an invitation for bids or a request for proposals. Each invitation for bids and request for proposals shall specify the criteria to be used in selecting projects for financing. The criteria shall include, but not be limited to, all of the following factors:

(a) The potential of the project to reduce consumption and

increase the efficiency of nonrenewable energy sources and systems.

(b) The financial, technical, and management strength of the project applicant.

(c) The near-term and long-term feasibility of the project.

(d) The ability of the project technology to be used on other applications throughout California.

(e) The potential of the project for promoting diverse, secure, and resilient energy supplies.

(f) The potential of the project for reducing adverse environmental impacts.

(g) The potential of the project to stimulate economic development, employment, and tax revenues for California.

(h) The potential of the project for reducing short-term and long-term energy costs for the ratepayers of California.

(i) The need of the project for state financing.

(j) The ability of the project to garner private investment.

(k) The investment payback period for the project.

(*l*) The probability of success in overcoming the risk of the project.

(m) The potential for stimulating small business competition in the field of alternative energy development.

(n) The ability of the project to generate needed community economic development for participating local jurisdictions.

(o) The extent of the applicant's financial participation.

(p) The degree of innovation of the project.

(q) Whether the project is in general agreement with the energy policies of California regarding the energy technologies and priorities as set forth in the biennial report of the commission.

25685. The energy technology projects to be considered for funding under this chapter shall include, but are not limited to, all of the following:

(a) Low and medium temperature geothermal systems.

(b) Advance cogeneration systems.

(c) Fuel cells.

(d) Coal combustion systems.

(e) Advanced oil or gas combustion systems.

(f) Methanol overfiring and coproduction.

(g) Transmission system efficiency and reliability.

(h) Photovoltaics.

(i) Biomass gasification system.

(j) Low and medium BTU gas technologies for electric generation.

(k) Other alternative energy technologies.

25686. The commission shall actively solicit recommendations from interested parties, including, but not limited to, representatives of private industry, small businesses, research organizations, public utilities, independent energy producers, local governments, and the federal government in selecting the kinds of technologies for funding.

25686.5. At the commencement of each fiscal year, at least 70 percent of the money in the account shall be made available for loans for projects and the remainder shall be made available for contract research funding under this chapter for that fiscal year. The commission may make less than 70 percent of the money in the account at the commencement of each fiscal year available for loans, if it determines, through a four-fifths vote of the commission, that the public interest and objectives of this chapter will be better served through increased contract research funding. In no instance, however, shall the amount of funds available for loans be less than 50 percent of the money in the account at the commencement of each fiscal year.

25686.8. Any loan made from the account shall not be greater than 80 percent of the total project cost. Any contract research funding shall not be greater than 50 percent of the total project cost. The commission may provide a loan which exceeds that limit if it determines, through a four-fifths vote of the commission, that a major state contribution is essential to ensure project success.

25687. Each project proponent to whom a loan is made under this article shall repay the principal amount of the loan, plus interest calculated and established by the commission at a rate not to exceed the current rate of return for money in the Pooled Money Investment Account, and not less than 8 percent or the rate of return for money in the Pooled Money Investment Account, whichever is less. The project proponent shall repay the loan within 90 months from receipt of the funds, as determined by the commission.

25687.5. The commission shall make at least 10 percent of the funds in the account at the commencement of each fiscal year available to local jurisdictions. The commission may make less than 10 percent of the funds available for local jurisdictions, if it determines, through a four-fifths vote, that the public interest and the objectives of this chapter will be better served at a lower level.

25687.6. Not more than 25 percent of the funds in the account at the commencement of each fiscal year shall be available for any individual project. However, the commission may make more than 25 percent of the funds available for an individual project, if it determines, through a four-fifths vote, that the public interest and the objectives of this chapter will be better served at the higher level.

25687.7. No projects eligible for funding under Chapter 6 (commencing with Section 3800) of Division 3 or Chapter 7.3 (commencing with Section 25630) of Division 15 shall be eligible for funding under this chapter.

25688. The commission shall include a summary of projects financed under this chapter in its biennial report, or one of the subsidiary documents to the biennial report.

25689. The commission shall prepare an extensive report examining the benefits to the people of this state from the research, development, and demonstration projects for which financing was provided under this chapter, and submit it to the Legislature on or

before January 1, 1990.

25690. The sum of six million dollars ($6,000,000) is hereby appropriated and transferred to the account, of which one million dollars ($1,000,000), for the 1984–85 fiscal year, and five million dollars ($5,000,000), for the 1985–86 fiscal year, shall be from the Energy Resources Programs Account in the General Fund, for use by the commission to carry out this chapter. In the event that all or part of the one million dollars ($1,000,000) appropriation from the Energy Resources Programs Account for the 1984–85 fiscal year is unavailable, the balance of the appropriation shall be made from the General Fund, not to exceed one million dollars ($1,000,000) from both sources during the 1984–85 fiscal year.

25690.5. The commission shall provide technical assistance, review and quality control of projects funded under this chapter. Beginning July 1, 1985, and each fiscal year thereafter, funds for administering this chapter shall be appropriated in the Budget Act from the State Energy Resources Programs Account.

25692. Notwithstanding any other provision of law, the commission shall deposit in the account any repayments from equipment sales or contract funds appropriated to the commission for research, development, or demonstration of energy technologies. However, in the event that repayments from equipment sales or contract funds were generated from a loan or grant account which is still in existence, those repayments shall return to that specific loan or grant account.

The account shall be a revolving account with funds annually appropriated by the Legislature to the commission for disbursement over a three-year period. Additional funds, if necessary to carry out the purposes of this chapter, may be appropriated in the Budget Act.

25693. This chapter shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

CHAPTER 1596

An act to add and repeal Division 9 (commencing with Section 16000) of the Unemployment Insurance Code, relating to displaced homemakers, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

I am deleting the $1 million appropriation contained in Section 2(a) of Senate Bill No. 2262.

Funding for this program should be deferred until the Commission on the Status of Women is ready to implement the loan program. The $100,000 appropriation to the Commission for administrative costs has been retained in the bill.

With this reduction, I approve Senate Bill No. 2262.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Division 9 (commencing with Section 16000) is added to the Unemployment Insurance Code, to read:

DIVISION 9. DISPLACED HOMEMAKER EMERGENCY LOAN ACT

16000. This article shall be known and may be cited as the Displaced Homemaker Emergency Loan Act.

16001. The Legislature hereby finds and declares that:

(a) Many persons, primarily women who have relied upon a spouse as primary or sole means of support, are temporarily without adequate resources to sustain themselves or their dependents, or to become self sufficient, during transition times occasioned by abandonment, divorce, or widowhood.

(b) These women, because of past financial status, do not qualify for public assistance programs. Often, they are ineligible for unemployment payments or other than minimal social security benefits because of their employment history. In many cases, they jointly own property, serving as a principal residence, which they are unable to liquidate in order to provide financial resources, yet which disqualifies them from receiving public assistance.

(c) The creation of the loan program contained in this division is an important enabling method for these persons to enhance their lives and to ensure their opportunity to achieve self-sufficiency.

16002. The Legislature also finds and declares that an emergency loan program is necessary to assist displaced homemakers in adjusting to the fiscal, emotional, and career crises often inherent in abandonment, separation, divorce, or widowhood, and to provide them the opportunities and education necessary to live independently and become effective participants in the work force.

16003. The Displaced Homemaker Emergency Loan Act shall be administered by the Commission on the Status of Women as a pilot project in the Counties of Marin, San Francisco, and Alameda.

(a) Loans may be made to displaced homemakers in amounts not to exceed two thousand five hundred dollars ($2,500) per displaced homemaker.

(b) Applications for loan guarantees shall be filed with the department within six months from the displacement date.

(c) Loans shall be limited to applicants who do not qualify for other public assistance.

(d) Priority shall be given to applicants who are participating in job search or educational programs designed to improve the employability of the individual or who meet the requirements of paragraph (4) of subdivision (a) of Section 16005. Loans shall not be

made for this purpose if other assistance is available.

(e) Repayment of a loan shall commence no later than six months after receipt of the loan, with an option to postpone the commencement of payments another six months in cases of need which are verified by the department.

Full payment shall be made within 18 months after commencing loan repayment.

16004. Loans shall be made for any of the following purposes:

(a) To maintain or acquire a residence, or electrical, gas, or telephone service.

(b) For medical emergencies or to maintain health insurance.

(c) For the cost of short-term services or programs designed to improve employability.

(d) For emotional or psychological counseling or therapy.

(e) For child care and related expenses.

(f) For other emergencies or expenses to improve the financial or emotional stability of the household.

16005. (a) "Displaced homemaker" means a person who has been abandoned by, or separated from, a spouse, divorced, or widowed and who has an economic need caused by the displacement, the criteria for which shall include any of of the following categories:

(1) While married, did not work for a continuous period of at least five years up until the time of displacement or whose work did not provide sufficient job skills to enable him or her to find employment suitable to sustain him or her and the family.

(2) Whose income, at the time of displacement, did not amount to more than one-third of the gross household income, and did not exceed two-thirds of the statewide median household income.

(3) Whose employment has ended within six months of displacement because of stress related to displacement.

(4) Because of age or care of dependents, has added economic burdens related to the displacement.

(b) "Displacement" means abandonment by, or separation from, a spouse, divorce, or widowhood.

(c) "Displacement date" is any verifiable date of abandonment, separation, divorce, or widowhood.

16006. There is hereby established in the State Treasury the Displaced Homemaker Emergency Loan Fund, which shall be used to provide loans pursuant to this division. Notwithstanding Section 13340 of the Government Code, moneys in the fund are continuously appropriated for purposes of this division to the department.

16007. (a) An application to guaranty a loan made pursuant to the provisions of this division shall be made by an eligible lender on such form as the department may require. The application shall set forth the amount of the loan, its maturity, interest rate, amortization, and any other information required by the department.

(b) If, upon application by an eligible lender, the department finds that the lender has made an eligible loan, the department shall

cause the loan to be guaranteed.

16008. Upon default by the borrower on any loan made pursuant to the provisions of this division, the lender, if a secured party pursuant to Division 9 (commencing with Section 9101) of the Commercial Code, shall take such steps, and avail itself of such rights and remedies as may be provided for in the security agreement and by virtue of Chapter 5 (commencing with Section 9501) of Division 9 of the Commercial Code except when, in the determination of the department, special circumstances exist which do not warrant taking such action.

16009. (a) Upon default by the borrower on any loan made pursuant to the provisions of this division, the lender shall promptly notify the department, and the department shall, if requested, either at that time, or after further collection efforts, pay to the lender the amount of the loss sustained by the lender.

(b) In addition to the amount of loss, the lender may claim five hundred dollars ($500) for collection expenses incurred in the attempted collection of the loan. The collection expense shall be a charge against the Displaced Homemaker Emergency Loan Fund.

16010. Amounts recovered by a lender's collection efforts subsequent to presenting a claim for loss pursuant to this chapter shall be paid to the Treasurer for deposit in the Displaced Homemaker Emergency Loan Fund.

16011. Nothing in this chapter shall be construed to excuse the lender from exercising reasonable care and diligence in the making and collection of loans under the provisions of this division.

If the department, after reasonable notice and opportunity for hearing to an eligible lender, finds that it has substantially failed to exercise the reasonable care and diligence required under this section, the department shall disqualify that lender for further loans made pursuant to this division until the department is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence.

16051. "Eligible lender" means:

(a) A national or state chartered bank, savings and loan association, or a credit union which: (1) is subject to examination and supervision by an agency of the United States or of this state and, (2) does not have as its primary consumer credit function the making or holding of loans.

(b) A pension fund as defined in the federal Employees Retirement Income Security Act.

(c) An insurance company which is subject to examination and supervision by an agency of the United States or this state.

(d) Any eligible lender approved by the authority to make loans pursuant to this division.

16052. "Insured displaced homemaker loan" means a loan, including a full line of credit, to a displaced homemaker by an eligible lender, as to which the payment of principal and interest is fully insured by the authority.

16053. "Loan guaranty" means the certificate, document, or endorsement issued by the authority as evidence of its insurance of an insured homemaker loan.

SEC. 2. There is hereby appropriated the sum of one million one hundred thousand dollars ($1,100,000) from the General Fund to be allocated as follows:

(a) One million dollars ($1,000,000) to the Displaced Homemaker Emergency Loan Fund for the purposes of this act.

(b) One hundred thousand dollars ($100,000) to the Commission on the Status of Women for administrative costs for the 1984–85 fiscal year.

SEC. 3. This act shall remain in effect until January 1, 1989, and as of that date is repealed, unless a later enacted act, which is chaptered before January 1, 1989, deletes or extends that date.

SEC. 4. An evaluation of the operation of this act shall be submitted by the Commission on the Status of Women on or before July 1, 1990, to the rules committee of each house of the Legislature for referral to the appropriate policy committee.

CHAPTER 1597

An act to amend Section 1501.1 of, and to add Sections 1515 and 1525.1 to, the Health and Safety Code, and to amend Section 903.7 of the Welfare and Institutions Code, relating to youth, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

I am deleting the $4.6 million appropriation contained in Section 5(a) of Senate Bill No. 2003 to fund foster parent recruitment and home study programs.

There are not sufficient resources available to fully fund this worthwhile measure.

The $1 million appropriation for support of foster parent training programs is retained in the bill. Such training programs can lead to more stable and less costly placement of foster children.

With this deletion I approve Senate Bill No. 2003.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The incident of child abuse and neglect reporting is significantly increasing.

(b) There is an inadequate supply of foster family homes in this state to meet the varying needs of abused and neglected children who need out-of-home placement.

(c) Foster family homes are intended to provide a safe and stable

environment for children to grow.

(d) There currently exists inadequate support and training programs for foster parents to best meet the needs of children who need out-of-home placement.

(e) There is a need to establish, at the local level, a foster parent recruitment and training program.

SEC. 1.5. Section 1501.1 of the Health and Safety Code is amended to read:

1501.1. (a) It is the policy of the state to facilitate the proper placement of every child in residential care facilities where the placement is in the best interests of the child. A county may require placement or licensing agencies, or both placement and licensing agencies, to actively seek out-of-home care facilities capable of meeting the varied needs of the child. Therefore, in placing children in out-of-home care, particular attention should be given to the individual child's needs, the ability of the facility to meet those needs, the needs of other children in the facility, the licensing requirements of the facility as determined by the licensing agency, and the impact of the placement on the family reunification plan.

(b) Pursuant to the provisions of this section, children with varying designations and varying needs, except as provided by statute, may be placed in the same facility provided the facility is licensed, complies with all licensing requirements relevant to the protection of the child, and has a special permit, if necessary, to meet the needs of each child so placed. Children with developmental disabilities, mental disorders, or physical disabilities may be placed in licensed foster family homes, provided that an appraisal of the child's needs and the ability of the receiving home to meet those needs is made jointly by the placement agency and the licensee, and is followed by written confirmation by the licensing agency prior to placement.

(c) Neither the requirement for any license nor any regulation shall restrict the implementation of the provisions of this section. Implementation of this section does not obviate the requirement for a facility to be licensed by the department.

SEC. 2. Section 1515 is added to the Health and Safety Code, to read:

1515. The department shall authorize county welfare departments to undertake comprehensive recruitment programs, including but not limited to media advertising, public awareness campaigns and public speaking engagements to ensure an adequate number of foster homes are available to meet the child welfare placement needs in each county.

In counties in which the county has contracted with the state to license foster parents, if the county undertakes a recruitment program, it shall be done by the placement agency. The state shall not be required to perform any acts in connection with a recruitment program.

SEC. 3. Section 1525.1 is added to the Health and Safety Code, to

read:

1525.1. The county welfare director shall, prior to the issuance of any foster family home license, ensure that the county licensing staff, or the placement staff, conducts one or more home interviews with the prospective foster parent sufficient to collect information which may be used by the placement agency to evaluate the willingness and readiness of the prospective foster parent to meet the varying needs of hard to place children. The inability of a prospective foster parent to meet the varying needs of hard to place children shall not, in and of itself, preclude a prospective foster parent from obtaining a foster home license. In counties in which the county has contracted with the state to license foster family homes, the home interview shall be done by the placement agency.

All home interviews required by this section shall be on a face-to-face basis.

If the home interview is conducted by the licensing agency, it shall be a part of the licensing record, and shall be shared with the placement agency pursuant to subdivision (e) of Section 1798.24 of the Civil Code.

No license shall be issued unless a home interview has been conducted as required by this section.

SEC. 4. Section 903.7 of the Welfare and Institutions Code is amended to read:

903.7. (a) There is in the State Treasury the Foster Children and Parent Training Fund, the moneys contained in which shall be used exclusively for the purposes set forth in this section.

(b) For each fiscal year beginning with fiscal year 1981–82, except as provided in Sections 15200.1, 15200.2, and 15200.3, the State Department of Social Services shall determine the amount equivalent to the state share of collections attributable to the enforcement of parental fiscal liability pursuant to Sections 903, 903.4, and 903.5. On July 1, 1982, and every three months thereafter, the department shall notify the Chancellor of the Community Colleges, the Department of Finance, and the Superintendent of Public Instruction of the above-specified amount. The State Department of Social Services shall authorize the quarterly transfer of any portion of this amount for any particular fiscal year exceeding three million seven hundred fifty thousand dollars ($3,750,000) to the Treasurer for deposit in the Foster Children and Parent Training Fund.

(c) If sufficient moneys are available in the Foster Children and Parent Training Fund, up to one million dollars ($1,000,000) shall be allocated for the support of foster parent training programs conducted in community colleges. The maximum amount authorized to be allocated pursuant to this subdivision shall be adjusted annually by a cost-of-living increase each year based on the percentage given to discretionary education programs. Funds for the training program shall be provided in a separate budget item in that portion of the Budget Act pertaining to the Chancellor of the

California Community Colleges, to be deposited in a separate bank account by the Chancellor of the California Community Colleges.

The chancellor shall use these funds exclusively for foster parent training, as specified by the chancellor in consultation with the California State Foster Parents Association and the State Department of Social Services.

The plans for each foster parent training program shall include the provision of training to facilitate the development of foster family homes and small family homes to care for no more than six children who have special mental, emotional, developmental, or physical needs.

The State Department of Social Services shall facilitate the participation of county welfare departments in the foster parent training program. The State Foster Parents Association, or the local chapters thereof, and the State Department of Social Services shall identify training participants and shall advise the chancellor on the form, content, and methodology of the training program. Funds shall be paid monthly to the foster parent training program until the maximum amount of funds authorized to be expended for that program is expended. No more than 10 percent or seventy-five thousand dollars ($75,000) of these moneys, whichever is greater, shall be used for administrative purposes; of the 10 percent or seventy-five thousand dollars ($75,000), no more than ten thousand dollars ($10,000) shall be expended to reimburse the State Department of Social Services for its services pursuant to this paragraph.

(d) Beginning with fiscal year 1983–84, and each fiscal year thereafter, after all allocations for foster parent training in community colleges have been made, any moneys remaining in the Foster Children and Parent Training Fund may be allocated for foster children services programs pursuant to Chapter 11.3 (commencing with Section 42920) of Part 24 of the Education Code.

(e) The Controller shall transfer moneys from the Foster Children and Parent Training Fund to the Chancellor of the Community Colleges and the Superintendent of Public Instruction as necessary to fulfill the requirements of subdivisions (c) and (d).

After the maximum amount authorized in any fiscal year has been transferred to the Chancellor of the Community Colleges and the Superintendent of Public Instruction, the Controller shall transfer any remaining funds to the General Fund for expenditure for any public purpose.

SEC. 5. The sum of five million six hundred thousand dollars ($5,600,000) is hereby appropriated from the General Fund to the Controller for allocation to the State Department of Social Services, without regard to fiscal years, for purposes of this act as follows:

(a) The sum of four million six hundred thousand dollars ($4,600,000) shall be allocated for additional contracted county licensing staff needed to provide for the recruitment and home study programs pursuant Sections 1515 and 1525.1 of the Health and Safety

Code.

(b) The sum of one million dollars ($1,000,000) is allocated to the Foster Children and Parent Training Fund solely for the support of foster parent training programs pursuant to subdivision (c) of Section 903.7 of the Welfare and Institutions Code.

It is the intent of the Legislature that annual appropriations for these programs be included in the Budget Act.

CHAPTER 1598

An act to amend Sections 1266, 1290, 1419, 1422, 1424, and 1432 of, to add Sections 1271, 1418.2, 1427.5, 1430.5, 1432.1, and 1439.5 to, and to repeal and add Article 2.5 (commencing with Section 1272) of Chapter 2 of Division 2 of, the Health and Safety Code, and to add Sections 14022.3, 14110.6, 14110.7 to the Welfare and Institutions Code, relating to health, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 1266 of the Health and Safety Code is amended to read:

1266. (a) Each new and renewal application for a license for the health facilities listed below shall be accompanied by an annual fee as set forth below.

The annual fee for a general acute care hospital, acute psychiatric hospital, special hospital, general acute care/rehabilitation hospital, psychiatric health facility, and chemical dependency recovery hospital, based on the number of licensed beds, is as follows:

1–49 beds	$460 plus $8 per bed
50–99 beds	$850 plus $8 per bed
100 or more beds	$1,175 plus $8 per bed

The annual fee for a skilled nursing facility, intermediate care facility, and intermediate care facility/developmentally disabled, based on the number of licensed beds, is as follows:

1–59 beds	$2,068 plus $26 per bed
60–99 beds	$2,543 plus $26 per bed
100 or more beds	$3,183 plus $26 per bed

The fees provided in this subdivision shall be adjusted, commencing July 1, 1983, as proposed in the department's 1983–84 fiscal year Health Facility License Fee Report to the Legislature. Commencing July 1, 1984, fees provided in this subdivision shall be adjusted annually, as directed by the Legislature in the annual Budget Act.

(b) The state department shall submit to the Legislature, on or before January 17 of each year, a report describing program costs within the Licensing and Certification Division, and a methodology for calculating fee levels in an amount sufficient to provide revenues equal to (1) the General Fund expenditures for the fiscal year ending on June 30 of that year, as specified in the proposed Governor's Annual Budget, less license fees which shall be collected in that fiscal year by the Licensing and Certification Program pursuant to sections other than this section, plus (2) the amount of federal funds budgeted for the fiscal year ending June 30 of that year for the Licensing and Certification Program, less federal funds received or credited, or anticipated to be received or credited, during that fiscal year for that purpose.

The report shall specifically identify federal funds received, but not previously budgeted, for the Licensing and Certification Program which are used to offset the amount of General Fund dollars to be recovered through license fees. The report shall also identify the purpose of federal funds received for any additional activities under the Licensing and Certification Program which are not used to offset the amount of General Fund dollars.

(c) The annual fees determined pursuant to this section shall be waived for any health facility conducted, maintained, or operated by this state or any state department, authority, bureau, commission or officer, or by the Regents of the University of California, or by a local hospital district, city, county, or city and county.

(d) The state department shall by July 30 of each year publish a list of actual numerical fee charges as adjusted pursuant to this section. This adjustment of fees and the publication of the fee list shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) Prior to the establishment of the annual fee, the state department shall prepare a staffing and systems analysis to ensure efficient and effective utilization of fees collected, proper allocation of departmental resources to licensing and certification activities, survey schedules, complaint investigations, enforcement and appeal activities, data collection and dissemination, surveyor training, and policy development.

The analysis under this subdivision shall include all of the following:

(1) The number of surveyors and administrative support personnel devoted to licensing and certification of health care facilities.

(2) The percentage of time devoted to licensing and certification activities for the various types of health facilities.

(3) The number of facilities receiving full surveys versus abbreviated surveys, and the frequency and number of followup visits.

(4) The number and timeliness of complaint investigations.

(5) Data on deficiencies and citations issued, and numbers of citation review conferences and arbitration hearings.

(6) Training courses provided for surveyors.

(7) Other applicable activities of the licensing and certification division.

The analysis shall also include recommendations for administrative changes to streamline and prioritize the survey process, complaint investigations, management information systems, word processing capabilities and effectiveness, consumer information system, and surveyor training.

The annual staffing and systems analysis shall be presented to the Health Care Advisory Committee and the Legislature prior to establishment and adoption of the annual fee.

SEC. 2. Section 1271 is added to the Health and Safety Code, to read:

1271. (a) The Legislature finds and declares that uniform orientation and training are fundamental to ensuring a high level of competency of state personnel charged with enforcing state law regulating the licensure, certification, and inspection of long-term health care facilities.

(b) The state department shall develop, adopt, and implement comprehensive continuing orientation and in-service training programs. The comprehensive programs shall, at a minimum, include, but not be limited to, both of the following:

(1) An orientation program consisting of instruction in basic enforcement, inspection, investigation, and survey skills and techniques, patients' rights and safety, health facility, clinic, and agency licensing regulations, and supervised on-the-job training in long-term health care facilities.

(2) Ongoing in-service training to maintain continuing competency in existing and new inspection, investigation, and enforcement skills, patient care modalities, and to assure statewide uniform interpretation and application of long-term health care facility licensing regulations.

(c) The state department shall establish and maintain a program review function responsible for inspecting, monitoring, evaluating, and providing consultative support and assistance to licensing and certification field offices. The program review shall ensure that the licensing and certification field offices implement, enforce, and interpret applicable state statutes, licensing regulations, certification standards, and departmental policies and procedures in an effective and uniform manner statewide.

SEC. 3. Article 2.5 (commencing with Section 1272) of Chapter 2 of Division 2 of the Health and Safety Code is repealed.

SEC. 4. Article 2.5 (commencing with Section 1272) is added to Chapter 2 of Division 2 of the Health and Safety Code, to read:

Article 2.5. Health Care Advisory Committee

1272. There is hereby created the Health Care Advisory Committee which shall assist, advise, and make written recommendations to

the director regarding existing and proposed regulations, policies, and administrative practices affecting the delivery of services rendered by general acute care hospitals, acute psychiatric hospitals, special hospitals, psychiatric health facilities, chemical dependency recovery hospitals, and specialty clinics. For these purposes, the committee shall serve as consultants to the director.

The committee shall consist of the director, or the director's designee, who shall serve as chairman ex officio, and 12 members who shall be appointed by the Governor. Five members shall be public members representing consumers, one member shall be an ombudsman certified by the Department of Aging, and six members shall be representatives of the health care industry, consisting of two members representing general acute care hospitals, one member representing acute psychiatric hospitals, one member representing chemical dependency recovery hospitals, one member representing speciality clinics, and one member shall be a physician and surgeon currently licensed to practice in this state.

Committee members shall serve for four-year terms and until the appointment and qualification of their successors. Initial terms of the members of the committee shall expire in the following order: one public member, the certified ombudsman, and one industry member on July 1, 1986; two public members, the physician and surgeon, and three industry members on July 1, 1987; two public members and two industry members on July 1, 1988. The Governor shall designate the term for which each member is initially appointed. Vacancies shall be filled by the Governor for the unexpired term.

1273. Members of the committee shall serve without compensation, but shall receive the current per diem, subsistence and travel reimbursement paid to state managers, supervisors, and confidential employees for expenses incurred in the performance of their duties.

1274. The committee shall meet on call of the director.

SEC. 5. Section 1290 of the Health and Safety Code is amended to read:

1290. (a) Except as provided in subdivision (b) or (c), any person who violates this chapter or who willfully or repeatedly violates any rule or regulation promulgated under this chapter is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail for a period not to exceed 180 days, or by both the fine and imprisonment.

(b) Any person who violates Section 1286 is guilty of an infraction and shall be punished by a fine of not more than one hundred dollars ($100).

(c) Any person who willfully or repeatedly violates this chapter or Chapter 2.4 (commencing with Section 1417), excluding Sections 1425 and 1432, or any rule or regulation promulgated under this chapter, relating to the operation or maintenance of a long-term health care facility as defined in Section 1418, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not

to exceed two thousand five hundred dollars ($2,500) or by imprisonment in the county jail for a period not to exceed 180 days, or by both.

In determining the punishment to be imposed upon a conviction under this subdivision, the court shall consider all relevant facts, including, but not limited to, the following:

(1) Whether the violation exposed the patient to the risk of death or serious physical harm.

(2) Whether the violation had a direct or immediate relationship to the health, safety, or security of the patient.

(3) Evidence, if any, of willfulness.

(4) The number of repeated violations.

(5) The presence or absence of good faith efforts by the defendant to prevent the violation.

(d) For the purposes of this section, "willfully" or "willful" means the person doing an act or omitting to do an act intends the act or omission, and knows the relevant circumstances connected therewith.

SEC. 6. Section 1418.2 is added to the Health and Safety Code, to read:

1418.2. Every licensed long-term health care facility shall establish and maintain a patient oriented council. Each council shall include the patients or residents of the long-term health care facility, and may include family members of patients or residents, advocates or ombudsman groups interested in patients of long-term health care facilities, and personnel of the long-term health care facility.

The council shall meet at regularly scheduled intervals, shall maintain written minutes, including names of council members present, and shall have minutes available for review by the state department upon its request.

Written council minutes may include recommendations from the council to the licensee of the long-term health care facility which shall be provided to the licensee. The licensee shall provide evidence of review and action on these recommendations to the state department upon its request.

(b) Any long-term health care facility which fails to establish a patient-oriented council as prescribed in subdivision (a) shall not be entitled to an abbreviated inspection for a period of one full inspection year, unless exempted from this requirement by the state department.

(c) The state department shall, by regulation, specify those circumstances under which a long-term health care facility may be exempted from the provisions of subdivisions (a) and (b).

SEC. 7. Section 1419 of the Health and Safety Code is amended to read:

1419. Any person may request an inspection of any long-term health care facility in accordance with this chapter by giving oral or written notice to the state department of an alleged violation of applicable requirements of state law. Any such notice may be in writing signed by the complainant setting forth with reasonable par-

ticularity the matters complained of. The complaint may also be made by telephone, or personal visit. Any oral complaint shall be reduced to writing by the state department. The substance of the complaint shall be provided to the licensee no earlier than at the commencement of the inspection. Neither the substance of the complaint provided the licensee nor any copy of the complaint or record published, released, or otherwise made available to the licensee shall disclose the name of any individual complainant or other person mentioned in the complaint, except the name or names of any duly authorized officer, employee, or agent of the state department conducting the investigation or inspection pursuant to this chapter, unless the complainant specifically requests the release of the name or names or the matter results in a judicial proceeding.

SEC. 8. Section 1422 of the Health and Safety Code is amended to read:

1422. (a) The Legislature finds and declares that it is the public policy of this state to assure that long-term health care facilities provide the highest level of care possible. The Legislature further finds that inspections are the most effective means of furthering this policy. It is not the intent of the Legislature by the amendment of subdivision (b) enacted by Chapter 1595 of the Statutes of 1982 to reduce in any way the resources available to the state department for inspections, but rather to provide the state department with the greatest flexibility to concentrate its resources where they can be most effective.

(b) Without providing notice of these inspections, the state department shall, in addition to any inspections conducted pursuant to complaints filed pursuant to Section 1419, conduct inspections annually, except with regard to those facilities which have no class AA, class A, or class B violations in the past 12 months. The state department shall also conduct inspections as may be necessary to assure the health, safety, and security of patients in long-term health care facilities. Every facility shall be inspected at least once every two years.

The state department shall submit to the federal Department of Health and Human Services on or before July 1, 1985, for review and approval, a request to implement a three-year pilot program designed to lessen the predictability of the long-term health care facility inspection process. Two components of the pilot program shall be (1) the elimination of the present practice of entering into a one-year certification agreement, and (2) the conduct of segmented inspections of a sample of facilities with poor inspection records, as defined by the state department. At the conclusion of the pilot project an analysis of both components shall be conducted by the state department to determine effectiveness in reducing inspection predictability and the respective cost benefits. Implementation of this pilot project is contingent upon federal approval. The state department shall report annually to the Legislature on the progress of the pilot project with a final report at the end of the third year.

(c) Except as otherwise provided in subdivision (b), the state

department shall conduct unannounced direct patient care inspections at least annually to inspect physician and surgeon services, nursing services, pharmacy services, dietary services, and activity programs of all the long-term health care facilities. Facilities evidencing repeated serious problems in complying with this chapter or a history of poor performance, or both, shall be subject to periodic unannounced direct patient care inspections during the inspection year. The direct patient care inspections shall assist the state department in the prioritization of its efforts to correct facility deficiencies.

(d) All long-term health care facilities shall report to the state department any changes in the nursing home administrator or the director of nursing services within 10 calendar days of the changes.

(e) Within 90 days after the receipt of notice of a change in the nursing home administrator or the director of nursing services, the state department may conduct an abbreviated inspection of the long-term health care facility.

SEC. 9. Section 1424 of the Health and Safety Code is amended to read:

1424. Citations issued pursuant to this chapter shall be classified according to the nature of the violation and shall indicate the classification on the face thereof.

(a) In determining the amount of the civil penalty, all relevant facts shall be considered, including, but not limited to, the following:

(1) The probability and severity of the risk which the violation presents to the patient's mental and physical condition.

(2) The patient's medical condition.

(3) The patient's mental condition and his or her history of mental disability or disorder.

(4) The good-faith efforts exercised by the facility to prevent the violation from occurring.

(5) The licensee's history of compliance with regulations.

(b) Class "AA" violations are violations which meet the criteria for a class "A" violation and which the state department determines to have been a proximate cause of death of a patient of a long-term health care facility. A class "AA" violation is subject to a civil penalty in the amount of not less than five thousand dollars ($5,000) and not exceeding twenty-five thousand dollars ($25,000) for each violation. In any action to enforce a citation issued under this subdivision, the state department shall prove all of the following:

(1) The violation was the direct proximate cause of death of a patient.

(2) The death resulted from an occurrence of a nature which the regulation was designed to prevent.

(3) The patient suffering the death was among the class of persons for whose protection the regulation was adopted.

If the state department meets this burden of proof, the licensee shall have the burden of proving that the licensee violating the regulation did what might reasonably be expected of a long-term health care facility licensee, acting under similar circumstances, to comply

with the regulation. If the licensee sustains this burden, then the citation may be reduced.

For each class "AA" violation within a 12-month period which has become final, the state department shall consider the suspension or revocation of the facility's license in accordance with Section 1294. For a third or subsequent class "AA" violation in a facility within such a 12-month period which has been sustained following a citation review conference, the state department shall commence action to suspend or revoke the facility's license in accordance with Section 1294.

(c) Class "A" violations are violations which the state department determines present either (1) imminent danger that death or serious harm to the patients of the long-term health care facility would result therefrom, or (2) substantial probability that death or serious physical harm to patients of the long-term health care facility would result therefrom. A physical condition or one or more practices, means, methods, or operations in use in a long-term health care facility may constitute a class "A" violation. The condition or practice constituting a class "A" violation shall be abated or eliminated immediately, unless a fixed period of time, as determined by the state department, is required for correction. A class "A" violation is subject to a civil penalty in an amount not less than one thousand dollars ($1,000) and not exceeding ten thousand dollars ($10,000) for each and every violation.

(d) Class "B" violations are violations which the state department determines have a direct or immediate relationship to the health, safety, or security of long-term health care facility patients, other than class "AA" or "A" violations. Unless otherwise determined by the state department to be a class "A" violation pursuant to this chapter and rules and regulations adopted pursuant thereto, any violation of a patient's rights as set forth in Sections 72527 and 73523 of Title 22 of the California Administrative Code, which is determined by the state department to cause or under circumstances likely to cause significant humiliation, indignity, anxiety, or other emotional trauma to a patient is a class "B" violation. A class "B" violation is subject to a civil penalty in an amount not less than one hundred dollars ($100) and not exceeding one thousand dollars ($1,000) for each and every violation. A citation for a class "B" violation shall specify the time within which the violation is required to be corrected.

If a class "B" violation is corrected within the time specified, no civil penalties shall be imposed, unless it is a second or subsequent violation of the same regulation occurring within the period since and including the previous full annual licensing survey inspection or 12 months, whichever is greater. In no case shall the period extend beyond 13 months. At the citation review conference, the director's designee may, utilizing the criteria set forth in subdivision (a), waive or reduce the penalty as specified in subdivision (a) of Section 1428, taking into consideration the seriousness of the previous and present

violations, the similarity between the two violations, the extent to which there is a direct relationship to the health and safety or security of patients, and the good faith exercised by the licensee in correcting the problem. The decision to waive or not to waive these penalties shall not be reviewable.

(e) Any willful material falsification or willful material omission in the health record for a patient of a long-term health care facility is a violation. "Willful material falsification," as used in this section, means any entry in the patient health care record pertaining to the administration of medication, or treatments ordered for the patient, or pertaining to services for the prevention or treatment of decubitus ulcers or contractures, or pertaining to tests and measurements of vital signs, or notations of input and output of fluids, which was made with the knowledge that the records falsely reflect the condition of the resident or the care or services provided.

"Willful material omission," as used in this section, means the willful failure to record any untoward event which has affected the health, safety, or security of the specific patient, and which was omitted with the knowledge that the records falsely reflect the condition of the resident or the care or services provided. A violation of this subdivision may result in a civil penalty not to exceed ten thousand dollars ($10,000), as specified in paragraphs (1) to (3), inclusive. However, in no case shall the civil penalty be trebled.

(1) The willful material falsification or willful material omission is subject to a civil penalty of not less than two thousand five hundred dollars ($2,500) or more than ten thousand dollars ($10,000) in instances where the health care record is relied upon by a health care professional to the detriment of a patient by affecting the administration of medications or treatments, the issuance of orders, or the development of plans of care. In all other cases, violations of this subdivision are subject to a civil penalty not exceeding two thousand five hundred dollars ($2,500).

(2) Where the penalty assessed is one thousand dollars ($1,000) or less, the violation shall be issued and enforced in the same manner as a class "B" violation. Where the assessed penalty is in excess of one thousand dollars ($1,000), the violation shall be issued and enforced in the same manner as a class "A" violation.

(3) Nothing in this subdivision shall preclude the department from issuing a class "A" or class "B" citation for any violation which meets the requirements for such a citation, regardless of whether the violation also constitutes a violation of this subdivision. However, no single act, omission, or occurrence may be cited both as a class "A" or class "B" violation and as a violation of this subdivision.

(f) The director shall prescribe procedures for the issuance of a notice of violation with respect to violations having only a minimal relationship to patient safety or health.

SEC. 10. Section 1427.5 is added to the Health and Safety Code, to read:

1427.5. (a) When the administration of medications, treatments,

or other care is not recorded, as required by law, in the health care record for a patient of a long-term health care facility, it shall be presumed that the required medication, treatment, or care has not been provided.

(b) The presumption established by this section may be rebutted by a licensee only upon a showing of a preponderance of the evidence.

SEC. 11. Section 1430.5 is added to the Health and Safety Code, to read:

1430.5. Upon the implementation of the automated information system pursuant to Section 1439.5, the state department shall once each quarter issue a public information release to the state's news media identifying all long-term health care facilities in the state which have had no class "AA," class "A," or class "B" violations in the immediately preceding two inspection years.

A facility's inclusion in this public information release shall not be admissible in litigation involving the facility which is unrelated to the two-year period identified in any such release.

SEC. 12. Section 1432 of the Health and Safety Code is amended to read:

1432. (a) No licensee shall discriminate or retaliate in any manner against any patient or any employee in its long-term health care facility on the basis or for the reason that the patient or the employee or any other person has presented a grievance or complaint, or has initiated or cooperated in any investigation or proceeding by any governmental entity relating to care, services, or conditions at that facility. A licensee who violates this section is subject to a civil penalty of no more than ten thousand dollars ($10,000), to be assessed by the director and collected in the manner provided in Section 1430.

(b) Any attempt to expel a patient from a long-term health care facility or any type of discriminatory treatment of a patient by whom, or upon whose behalf, a grievance or complaint has been submitted, directly or indirectly, to any governmental entity or received by a facility administrator or any proceeding instituted under or related to this chapter within 180 days of the filing of the grievance or complaint or the institution of the action, shall raise a rebuttable presumption that the action was taken by the licensee in retaliation for the filing of the grievance or complaint.

(c) Any attempt to terminate the employment, or other discriminatory treatment, of any employee who has presented a grievance or complaint or has initiated, participated, or cooperated in any investigation or proceeding by a governmental entity, as specified in subdivision (a) and where the facility or licensee had knowledge of the employee's initiation, participation, or cooperation in the investigation or proceeding, shall raise a rebuttable presumption that the action was taken by the licensee in retaliation if it occurs within 120 days of the filing of the grievance or complaint, or the institution of the action.

(d) Presumptions provided for in subdivisions (b) and (c) are

presumptions affecting the burden of producing evidence as provided in Section 603 of the Evidence Code.

(e) Where the civil penalty assessed is one thousand dollars ($1,000) or less, the violation shall be issued and enforced in the same manner as a class "B" violation, except in no case shall the penalty be trebled. Where the civil penalty is in excess of one thousand dollars ($1,000), the violation shall be issued and enforced in the same manner as a class "A" violation, except in no case shall the penalty be trebled.

(f) Any person who violates this section is guilty of an infraction punishable by a fine of not more than ten thousand dollars ($10,000).

(g) A licensee who violates this section is subject to a civil penalty or a criminal fine, but not both.

(h) Each long-term health care facility shall prominently post in a facility location accessible to staff, patients, and visitors, written notice of the right to request an inspection pursuant to Section 1419, the procedure for doing so, including the right to remain anonymous, and the prohibition against retaliation.

SEC. 13. Section 1432.1 is added to the Health and Safety Code, to read:

1432.1. No licensee shall be cited for any violation caused by any person licensed pursuant to the State Medical Practice Act (Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code) if the person is independent of, and not connected with, the licensee and the licensee shows that he or she has exercised reasonable care and diligence in notifying the persons of their duty to the patients in the licensee's long-term health care facility.

SEC. 14. Section 1439.5 is added to the Health and Safety Code, to read:

1439.5. (a) The state department shall undertake the immediate development, implementation, and maintenance of an automated information system. The automated information system shall be developed to ensure both of the following:

(1) The most effective operation of this chapter and Chapter 2 (commencing with Section 1250), including, but not limited to, all of the following:

(A) Gathering data necessary to maximize enforcement and monitoring capabilities.

(B) Increasing accessibility of facility information.

(C) Identifying any trends of substandard care.

(D) Providing management information.

(2) The provision of information to the general public pursuant to subdivision (b).

The state department shall take all necessary action to obtain maximum federal funding assistance to develop, implement, and maintain an automated information system.

(b) The state department shall develop a consumer information system, pursuant to Section 1422.5, to provide information to the general public and long-term health care services consumers regard-

ing long-term health care facilities in this state. The state department shall utilize, to the extent possible, the information provided by its automated information system. Prior to implementation, the consumer information system shall be presented to the Health Care Advisory Committee for its review and comments.

SEC. 15. Section 14022.3 is added to the Welfare and Institutions Code, to read:

14022.3. Long-term health care facilities shall reveal to applicants for admission, or their designated representatives, orally and in writing and prior to admission, whether the facility participates in the Medi-Cal program, and the circumstances under which the law permits a Medi-Cal recipient to be transferred involuntarily.

SEC. 16. Section 14110.6 is added to the Welfare and Institutions Code, to read:

14110.6. (a) The director shall adopt regulations, effective March 15, 1985, establishing payment rates for skilled nursing facilities, intermediate care facilities, and intermediate care facilities/developmentally disabled, as defined in Section 1250 of the Health and Safety Code, which are sufficient to provide an increase of one dollar and ninety-six cents ($1.96) per patient day for skilled nursing patients, one dollar and fifty-eight cents ($1.58) per patient day for intermediate care patients, and two dollars and twenty-nine cents ($2.29) per patient day for intermediate care facilities/developmentally disabled patients to be used for wage increases and benefits to all employees, except a licensed nursing home administrator or an administrator in training. However, if the entry level wages of the lowest paid nonadministrative employee of a skilled nursing facility, intermediate care facility or intermediate care facility/developmentally disabled exceeds six dollars ($6) per hour as of August 1, 1984, the funds received pursuant to regulations adopted pursuant to this section shall be used to ensure the continued delivery of quality care in such facility. Any increase in wages and benefits required by this section shall be in addition to any future mandatory increases required by federal or state law. The rate shall provide funding for the portion of additional costs necessary to implement the wage and benefit increase required by this section attributable to Medi-Cal patients. The portion of such additional costs shall be the same as the ratio of Medi-Cal patients to the total number of patients in the facility.

(b) Each skilled nursing facility or intermediate care facility or intermediate care facility/developmentally disabled shall certify all of the following:

(1) All employees, except a licensed nursing home administrator or an administrator in training of a licensed nursing home, shall receive at least the prevailing federal or state minimum wage rate plus the average hourly wage increase established pursuant to Chapter 19, Statutes of 1978, and this section.

(2) All employees of the facility, except a licensed administrator or administrator in training, shall be paid not less than the sum of the

employee's actual rate of pay as of the effective date of the Medi-Cal rate increase plus the amount of the adjustment specified pursuant to this section, or not less than the applicable agreed to rate plus the amount of the adjustment, whichever is greater.

(3) Any wage increase required pursuant to Section 1268.5 of the Health and Safety Code, is in addition to any minimum wages provided in this section.

(4) For purposes of determining the amount of Medi-Cal funds to be distributed for employee wages and benefits, the total Medi-Cal patient days recorded by the facility in the month of December 1983 shall be multiplied by the amount per patient day specified in subdivision (a) plus the amount provided by Chapter 19, Statutes of 1978. The new wage levels shall be determined by dividing the Medi-Cal funds received by the nonovertime hours worked by covered employees in December 1983, plus any adjustments due to additional employees as specified in Section 14110.7 and adjustments to reflect employee benefit allowances.

(c) The director shall order the inspection of relevant payroll and personnel records of skilled nursing facilities, intermediate care facilities, and intermediate care facilities/developmentally disabled which are reimbursed for Medi-Cal patients under the rate of reimbursement established pursuant to subdivision (a) to ensure that the wage and benefit increases provided for have been implemented.

(d) Any facility which is paid under the rate provided for in subdivision (a) which the director finds has not made the wage and benefit increases provided for shall be liable for the amount of funds paid to the facility based upon the wage and benefit requirements provided for by this section but not distributed to employees for wages and benefits, plus a penalty equal to 10 percent of the funds not so distributed.

SEC. 17. Section 14110.7 is added to the Welfare and Institutions Code, to read:

14110.7. (a) It is the intent of the Legislature that funds expended to implement this section be utilized by long-term health care facilities participating in Medi-Cal to improve patient care in such facilities by increasing staffing levels to meet patients' needs and to comply with new regulatory requirements, as well as to ensure that those facilities providing care to Medi-Cal patients have the needed resources and staff to provide quality care to Medi-Cal supported patients.

(b) The director shall adopt regulations, effective March 15, 1985, establishing payment rates for skilled nursing facilities, intermediate care facilities, and intermediate care facilities/developmentally disabled, as defined in Section 1250 of the Health and Safety Code, which are sufficient to provide an increase of one dollar and eighteen cents ($1.18) per patient day for skilled nursing patients, for intermediate care patients, and for intermediate care/developmentally disabled patients to increase staffing.

(c) The director shall adopt regulations increasing the minimum

number of equivalent nursing hours per patient required in skilled nursing facilities to 3.0, in skilled nursing facilities with special treatment programs to 2.3, in intermediate care facilities to 1.1, and in intermediate care facilities/developmentally disabled to 2.7.

(d) Effective August 1, 1985, and annually thereafter, each long-term health care facility shall certify to the department that funds received pursuant to this section were expended solely for labor costs directly related to providing patient care services in order to meet patients' needs and to comply with new regulatory requirements. Each facility shall also certify that these funds were not expended to increase salaries or benefits for facility administrators or administrators-in-training.

The department shall, after consultation with the California Association of Health Facilities and the California Association of Homes for the Aging, develop a methodology to determine whether facilities have spent funds in accordance with their certification. Thirty days prior to adoption of the methodology, the department shall notify the Joint Legislative Budget Committee and the fiscal committees of each house. Whenever the department finds that a facility has not spent funds in accordance with these provisions, the facility shall be liable for the amount paid to the facility pursuant to this section which was not distributed according to this section.

SEC. 18. The sum of eight million fifteen thousand dollars ($8,015,000) is hereby appropriated from the General Fund to the Controller, to be allocated to the State Department of Health Services, upon approval of the Director of Finance, for costs incurred during the 1984–85 fiscal year in implementing Section 14110.6 and 14110.7 of the Welfare and Institutions Code.

SEC. 18.7. The State Department of Health Services shall in its budget proposals for fiscal year 1986–87 provide for the creation of 12 additional auditor positions and two additional support staff within the Audits and Investigations Division of the State Department of Health Services. The purpose for the creation of these auditor positions is to ensure compliance with Sections 14110.6, and 14110.7 of the Welfare and Institutions Code, and to evaluate cost reports and payroll records submitted by long-term health care facilities pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

SEC. 18.9. Sections 1 to 18.7, inclusive, of this act shall not become operative, unless SB 1342, SB 1345, SB 1346, SB 1558, SB 1921, AB 2261, and AB 2263 of the 1983–84 Regular Session are all chaptered and become effective on or before January 1, 1985.

SEC. 19. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 20. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1599

An act to add Chapter 1.6 (commencing with Section 171) to Part 1 of Division 1 of the Health and Safety Code, relating to Alzheimer's disease, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984]

I am deleting the $150,000 appropriation contained in Section 2 of Assembly Bill No. 2733 which provides funding for support of the Alzheimer's Disease Task Force.

The $450,000 appropriation provided by SB 1337 for Alzheimer's leadership activities includes the necessary funding for support of the Alzheimer's Task Force.

With this deletion, I approve Assembly Bill No. 2733.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Chapter 1.6 (commencing with Section 171) is added to Part 1 of Division 1 of the Health and Safety Code, to read:

CHAPTER 1.6. ALZHEIMER'S DISEASE TASK FORCE

171. (a) (1) The Legislature hereby finds and declares that Alzheimer's disease is the fourth leading cause of death in the United States. An illness affecting the brain, Alzheimer's disease is by far the leading cause of dementia in middle-aged and elderly individuals.

(2) The Legislature further finds and declares that an estimated 2,500,000 Americans are currently afflicted with Alzheimer's disease. This disease runs a chronic, gradually progressive course resulting in complete physical and mental disability in the final stages.

(3) The Legislature also finds and declares that if no cure or prevention is found, an estimated 3,000,000 or 4,000,000 Americans, or one of every 10 adults over the age of 65, will be a victim of Alzheimer's disease in the year 2000.

(b) Therefore, it is the intent of the Legislature to ameliorate hardships encountered by Alzheimer's disease victims and families by addressing the paucity of health and social services available to victims and families, to address the unavailability of affordable long-term care, and to increase public awareness and education which will result in greater support and understanding for those afflicted with Alzheimer's disease by providing for the establishment

of an Alzheimer's Disease Task Force.

171.3. The Department of Aging shall establish an Alzheimer's Disease Task Force consisting of no more than 11 members. Members shall be selected from professional disciplines which include, but are not limited to, academic research, medicine, and mental health. Individuals representing families of persons suffering from Alzheimer's disease or related disorders shall comprise no less than two of the 11 members.

The Alzheimer's Disease Task Force shall do all of the following:

(a) Provide guidance to the Department of Aging in the development of training programs and media resource packages pursuant to Section 1568.15.

(b) Provide ongoing guidance to the administration and the Legislature as to the program needs of this target population.

(c) In conjunction with the Department of Aging, convene a statewide conference in 1985 to examine the state of the art, explore the progress of newly established programs and services, identify future needs for legislation and program development, and make recommendations on program needs. Conference participants shall include professionals and service providers in the area of Alzheimer's disease, family members of Alzheimer's patients, and staff members of the Legislature and state departments.

SEC. 2. The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the General Fund to the Department of Aging for expenditure during the 1984–85, 1985–86, and 1986–87 fiscal years as follows:

(a) For the 1984–85 fiscal year, fifty thousand dollars ($50,000), to be allocated as the department determines, for the support of the statewide conference described in Section 1568.17 of the Health and Safety Code and the Alzheimer's Disease Task Force.

(b) For the 1985–86 and 1986–87 fiscal years, fifty thousand dollars ($50,000) for each fiscal year for the support of the Alzheimer's Disease Task Force.

CHAPTER 1600

An act to amend Sections 1588, 1588.2, 1588.5, and 1588.7 of, to amend, repeal, and add Section 1572 of, to add Section 1589.5 to, to add Chapter 3.3 (commencing with Section 1568.10) to Division 2 of, the Health and Safety Code, and to amend Section 9201 of, to add Sections 9315 and 9317 to, and to add and repeal Section 9316 of, the Welfare and Institutions Code, relating to aging, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

I am deleting the $450,000 appropriation for the 1984–85 fiscal year contained in Health and Safety Code section 1568.21 of Senate Bill No. 1337.

Section 15 of SB 1337 contains an appropriation for adult day health care funding for the 1984–85 fiscal year. This deletion will eliminate double funding for 1984–85. The appropriations for the 1985–86 and 1986–87 fiscal years remain intact.

With this deletion, I approve Senate Bill No. 1337.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. The Legislature finds and declares that despite the concerted efforts of the Legislature and the administration to establish a continuum of community-based services for long-term care and despite new and expanded services, such as Adult Day Health Care, the Multipurpose Senior Services Program, expanded home-delivered meals, expanded Nursing Home Ombudsman Services and additional state support for the In-Home Supportive Services (IHSS) program, the state has not yet achieved the degree of coordination essential to prevent unnecessary or premature institutionalization.

The Legislature also finds and declares that federal law authorizing federal financial participation in the programs that provide community-based long-term care limits the extent to which the different funding sources and administrative functions can be integrated. It is, however, within the state's authority to establish a single coordinating entity to promote and facilitate close cooperation and working relationships between programs and efficient use of resources without infringing on single state agency requirements, where they may apply.

It is the intent of the Legislature to foster independence and self-reliance, maintain individual dignity, and allow persons requiring long-term care services to be an integral part of family and community life to the fullest extent possible.

To achieve this goal it is the further intent of the Legislature to provide a plan and structure whereby a continuum of long-term social and health support services may be established in communities throughout the state.

The Legislature declares the Department of Aging will be the principal department to have responsibility for development of policy, implementation, and integration of a comprehensive set of noninstitutional long-term care services for older Californians and functionally impaired adults.

The purpose of this act is to begin the incremental development of a long-term care delivery system that provides the social and health support necessary to enable frail elderly or functionally impaired adults to remain in their own homes.

The first phase of the long-term care system shall consist of the Department of Aging sponsoring new programs in long-term care services, increasing the adult day health care programs, increasing the Multipurpose Senior Services Programs and testing alternative case management models. The objective is to promote the development of community-based long-term care service delivery programs that foster local community control and offer a variety of options.

SEC. 2. The Legislature makes all of the following findings and declarations:

(a) There is a critical need to establish specialized programs for patients suffering from Alzheimer's disease and related diseases. Alzheimer's disease is an organic, progressive brain disorder which may result in its final stages in the complete mental and physical disability of a patient.

(b) There is a need to identify the appropriate level and type of care required to meet the nursing and psychosocial needs of these patients and to explore appropriate environmental conditions and treatment methods.

(c) There are few services specifically designed to meet the unique needs of Alzheimer's patients in the moderate to severe stages and their families, and it is imperative that these services be developed as soon as possible.

(d) Programs are needed to provide respite for families who provide care for these patients at home on a 24-hour basis, as well as to serve the psychosocial, health, and physical care needs of the patients.

(e) There is also a need to develop training programs for professionals and other persons providing care for Alzheimer's patients. Specialized programs for these persons while serving an Alzheimer's client population will provide an optimum setting for developing and implementing those training programs.

SEC. 3. Chapter 3.3 (commencing with Section 1568.10) is added to Division 2 of the Health and Safety Code, to read:

CHAPTER 3.3. ALZHEIMER'S DAY CARE-RESOURCE CENTER PILOT PROJECT ACT

1568.10. Unless the context otherwise requires, the following definitions shall govern the construction of this chapter:

(a) "Participant" means an individual with Alzheimer's disease or a disease of a related type, particularly those in the moderate to severe stages, whose care needs and behavioral problems may make it difficult for the individual to participate in existing care programs.

(b) "Disease of a related type" means those irreversible brain disorders which result in the symptoms described in subdivision (d). This includes, but is not limited to, multi-infarct dementia and Parkinson's disease.

(c) "Grantee" means any public agency or private nonprofit

agency selected by the Department of Aging to develop a day care program for participants under this chapter.

(d) "Care needs" or "behavioral problems" means the manifestations of symptoms, which may include, but need not be limited to, memory loss, aphasia (communication disorder), becoming lost or disoriented, confusion and agitation with the potential for combativeness, and incontinence.

(e) "Department" means the Department of Aging.

1568.11. This chapter shall be under the general supervision of the department, and the immediate responsibility for supervising the day care programs shall be vested in the Office of Long-Term Care and Aging established in the department pursuant to Section 1572, or any successor to that office.

1568.12. The following powers and duties are hereby vested in the department and the Office of Long-Term Care and Aging:

(a) The Office of Long-Term Care and Aging shall supervise three-year pilot projects in specialized day care-resource centers for participants developed pursuant to this chapter.

(b) (1) The state department shall conduct a grants-in-aid program, subject to the funds appropriated, for that purpose.

(2) The maximum award by the state department to any grantee shall be sixty thousand dollars ($60,000) per year, and a grantee shall be required to match not less than 25 percent of the amount granted. The use of the grants shall be limited to the expenses of administration, staffing, operating expenses, such as rent and utilities, and required renovation expenses.

(3) The matching contribution of the grantee may include cash or in-kind contributions, and the in-kind contribution may include the value of staffing or volunteer services, or both.

(4) Grants shall be awarded in different geographical areas of the state. Grantees shall include at least one urban and one rural center, with representation from the north, south, and central regions of the state.

(c) The department shall adopt policies, priorities, and guidelines to carry out the purposes of this chapter, and the adoption thereof shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) The department shall establish an advisory committee to make recommendations in the selection of grantees. The committee membership shall include, but not be limited to, all of the following:

(1) A representative from the California Commission on Aging.

(2) A representative from the State Department of Mental Health.

(3) A representative from the State Department of Social Services.

(4) A representative from the department.

(5) One or more professional persons in the field of community-based health care for the elderly.

(6) One or more family members of participants or persons

eligible to be participants.

(7) Representatives of appropriate units of the State Department of Health Services.

(e) If a program contract review committee is established under Section 9314 of the Welfare and Institutions Code, pursuant to the enactment of AB 2226 during the 1983–84 Regular Session, the program contract review committee established pursuant to Section 9314 of the Welfare and Institutions Code shall satisfy the requirements of a committee to review grantees under subdivision (d), with the addition of family members of participants or eligible participants and representatives from nonprofit organizations and professionals with expertise in Alzheimer's and related diseases, as designated by the director of the department.

1568.13. In order to be eligible to receive a grant under this chapter, the applicant shall apply in the manner the department shall prescribe, and shall meet all of the following conditions:

(a) The applicant shall be able to identify the special care needs and behavioral problems of participants, and the applicant's program shall be designed to meet those needs.

(b) The applicant shall demonstrate to the satisfaction of the department that the applicant's program has adequate and appropriate staffing to meet the nursing, psychosocial, and recreational needs of participants.

(c) The applicant shall provide an outline of the design of the applicant's physical facilities and of the safeguards which shall be used to protect the participants' safety.

(d) The applicant shall submit a plan for assisting individuals who cannot afford the entire cost of the program. This may include, but need not be limited to, utilizing additional funding sources to provide supplemental aid and allowing family members to participate as volunteers at the applicant's facility.

(e) The applicant shall submit a plan for utilizing volunteers and volunteer aids and provide an outline for adequate training of those volunteers.

(f) The applicant shall consult with the local adult day health planning council, if there is one, in order to determine the needs of their local community for adult day care services.

(g) The applicant shall identify potential sources of funding for the applicant's facility and shall outline plans to seek additional funding to remain solvent. This may include private donations and foundation grants, funding under the Short-Doyle Act, provided for in Part 2 (commencing with Section 5600) of Division 5 of the Welfare and Institutions Code, Medicare reimbursement for specific services, and the use of adult education and public health services.

1568.14. Each grantee shall also satisfy all of the following requirements:

(a) Establish family support groups.

(b) Encourage family members to provide transportation to and from the applicant's facility for participants.

(c) Concentrate on participants in the moderate to severe ranges of disability.

(d) Provide a noon meal to participants. The grantee may arrange to have the meal provided by an organization organized for the purpose of providing meals to the elderly or to those who are needy.

(e) Establish contact with local educational programs, such as nursing and gerontology programs, to provide onsite training to students.

(f) Provide services to assist family members, including counseling and referral to other resources.

(g) Serve as model centers available to other service providers for onsite training in the care of these patients.

(h) Involve the center in community outreach activities and provide educational and informational materials to the community.

1568.15. The Department of Aging shall be responsible for outreach and public information dissemination regarding victims of Alzheimer's disease and related disorders and their families. This responsibility shall include, but need not be limited to:

(a) State level support and assistance to programs developed for this target population, including the day care pilots and resource centers funded under this chapter.

(b) Establishment of a task force on Alzheimer's and related disorders pursuant to Section 1568.16.

(c) Development of a model media resource package, professional resource guide, and contract for development of a training module as provided for in Sections 1568.17 and 1568.18.

(d) Leadership in planning and convening a Statewide Conference on Alzheimer's and Related Disorders in 1985, pursuant to Section 1568.17.

(e) Coordination with other state departments now serving this population, including Health Services, Mental Health, and Social Services.

(f) Development of an interagency agreement with the State Department of Health Services to ensure administration and program effectiveness and for technical assistance on functions within the purview of the State Department of Health Services.

1568.16. The department shall establish an Alzheimer's Task Force comprised of no more than 11 members. Persons shall be selected from professional disciplines which include, but shall not be limited to, academic research, medicine, and mental health. Individuals representing families of persons suffering from Alzheimer's or related disorders shall comprise no less than two of the 11 members.

This section shall not become effective if Assembly Bill 2733 is enacted during the 1983–84 Regular Session.

1568.17. The Alzheimer's Task Force shall do all of the following:

(a) Provide guidance to the department in the development of the training and media resource packages.

(b) Provide ongoing guidance to the administration and the

Legislature as to the program needs and priorities of this target population.

(c) In conjunction with the department, convene a statewide conference in 1985 to examine the state of the art, explore the progress of newly established programs and services, identify future needs for legislation and program development, and make recommendations on program needs. Conference participants shall include professionals, service providers, family members, legislative, and departmental staff.

This section shall not become effective if Assembly Bill 2733 is enacted during the 1983–84 Regular Session.

1568.18. The department shall contract with a public or private nonprofit agency or with professional persons in the fields of health or social services with expertise in Alzheimer's disease, a disease of a related type, or a related dementia to develop a training module which includes information on the symptoms and progress of the diseases and to develop appropriate techniques for dealing with the psychosocial, health, and physical needs of participants.

The training module shall be developed as onsite training for day care centers funded under this chapter and shall be available to other community-based providers who serve this client population. The training module shall be owned and distributed by the department.

1568.19. The department shall report to the Legislature on or before December 1, 1986, and annually thereafter on the grant programs described in this chapter. The report shall include, but not be limited to, all of the following:

(a) A description of the progress made in implementing the programs.

(b) The number of grantees who have established day programs pursuant to this chapter.

(c) The numbers and characteristics of participants served by the programs, including, but not limited to, all of the following:

(1) Age.

(2) Sex.

(3) Diagnosis.

(4) Reason for admission.

(5) Functional impairment.

(6) Referral source.

(7) Living situation.

(8) Payment source.

(d) An evaluation of the usefulness of the programs in all of the following areas:

(1) Delaying the placement of the participants in institutions.

(2) Providing respite to families who care for participants in the home.

(3) Providing a setting for onsite training in the care of these patients.

(e) A description of findings on the appropriate level and type of care required to meet the nursing and psychosocial needs of the

patient and appropriate environmental conditions and treatment methods.

(f) An evaluation of the appropriate licensure category for these programs, including a discussion of the necessity of a new licensure category. This evaluation shall also consider existing licensing provisions for adult day health care centers and adult day care centers under the California Community Care Facilities Act in order to determine if changes might be made to allow them to more appropriately meet the needs of these patients, in light of the findings under this chapter. The department shall consider the potential for reimbursement in these centers under the Medi-Cal Act, the Short-Doyle Act, and Medicare.

1568.20. Notwithstanding any other provision of this division, grantees not already licensed shall be exempt from licensure requirements under this division and shall be subject exclusively to this chapter. Nothing in this chapter shall be construed to prevent existing adult day health care centers or adult day care centers from developing a specialized program under this chapter. These applicants shall meet all of the requirements for grantees in Sections 1568.13 and 1568.14 and demonstrate to the satisfaction of the department that the grant award shall be used to develop a distinct specialized program for this target population.

Review of the need and desirability of proposals for day care centers shall be governed by this chapter and shall not be subject to review under Part 1.5 (commencing with Section 437) of Division 1.

1568.21. The sum of four hundred fifty thousand dollars ($450,000) is hereby appropriated annually from the General Fund to the department for three fiscal years, commencing with the 1984–85 fiscal year, to be utilized as follows:

(a) During the 1984–85 fiscal year:

(1) Three hundred thousand dollars ($300,000) to be allocated by the department for grants and administrative expenses of the specialized day care-resource centers.

(2) Fifty thousand dollars ($50,000) for support of the Alzheimer's Task Force.

(3) Fifty thousand dollars ($50,000) for development of informational and educational resources.

(4) Fifty thousand dollars ($50,000) for administrative expenses of the department.

(b) During each fiscal year thereafter:

(1) Three hundred thousand dollars ($300,000) to be allocated by the department for grants and administrative expenses of the specialized day care-resource centers.

(2) Fifty thousand dollars ($50,000) for ongoing support of an Alzheimer's Task Force, Statewide Conference and to contract for the development of a training module.

(3) Fifty thousand dollars ($50,000) for ongoing development of informational and educational resources.

(4) Fifty thousand dollars ($50,000) for administrative expenses of

the department.

SEC. 4. Section 1572 of the Health and Safety Code is amended to read:

1572. To the extent provided for under Section 9316 of the Welfare and Institutions Code, the functions and duties of the state department provided for under this chapter shall be performed for no longer than three years by the Department of Aging once the functions are transferred from the Department of Health Services to the Department of Aging. These functions shall be transferred when the Department of Aging develops an implementation plan clearly defining the authority, functions, and responsibility of the Department of Aging, and signs an interagency agreement with the state department to specify how the departments shall work together in areas of mutual concern.

The interagency agreement shall specify that the Department of Aging is designated by the state department as the agency responsible for community long-term care programs. At a minimum, the interagency agreement shall clarify each department's responsibilities on issues involving licensure and certification of adult day health care providers, payment of adult day health care claims, prior authorization of services, promulgation of regulations, and development of adult day health care Medi-Cal rates. This agreement shall also include provisions whereby the state department and the Department of Aging shall collaborate in the development and implementation of health programs and services for older persons and functionally impaired adults.

By December 1, 1986, the Department of Aging shall submit to the Joint Legislative Budget Committee and the fiscal committees of both houses a report specifically addressing the goals of the adult day health care program and how they have been met as a result of this transfer from the state department to the Department of Aging. To the extent necessary for implementation of Section 9316 of the Welfare and Institutions Code, as used in this chapter, "director" shall refer to the Director of the Department of Aging and "state department" shall refer to the Department of Aging. An Adult Day Health Care Committee is hereby established in the Department of Aging. The committee shall include a member of the California Commission on Aging, who shall be a member of the Long-Term Care Committee of the commission, a representative of the Association for Adult Day Care Services, a representative of the California Association of Area Agencies on Aging, a representative of the California Conference of Local Health Officers, a member of a local adult day health care planning council, and representatives from other appropriate state departments, including the State Department of Health Services, the State Department of Social Services, the State Department of Mental Health, and the State Department of Rehabilitation, as deemed appropriate by the Director of the Department of Aging. The committee shall advise the Director of the Department of Aging in developing policies and

procedures for regulation of the Adult Day Health Care program.

This function shall also include advice to the Director of the Department of Aging for recommendations to the State Department of Health Services on licensure, Medi-Cal reimbursement, and utilization control issues.

Additionally, the functions of the committee shall include all of the following:

(a) The committee shall review and make recommendations on guidelines for adoption by the Director of the Department of Aging setting forth principles for evaluation of community need for adult day health care, which shall take into consideration the desirability of coordinating and utilizing existing resources, avoidance of duplication of services and inefficient operations, and locational preferences with respect to accessibility and availability to the economically disadvantaged older person.

(b) The committee shall review county plans submitted pursuant to Section 1572.9. Such county plans shall be approved if consistent with the guidelines adopted by the director pursuant to subdivision (a).

(c) The committee shall review and make recommendations to the Director of the Department of Aging concerning individual proposals for startup funds and for original licensure of proposed adult day health centers. The Director of the Department of Aging shall make recommendations regarding licensure to the Licensing and Certification Division in the State Department of Health Services. This review may include onsite inspections by the committee, or a special subcommittee thereof, for the purpose of evaluating a proposed provider or its facility. The basis of this review shall be the approved county plan and an evaluation of the ability of the applicant to provide adult day health care in accordance with the requirements of this chapter and regulations adopted hereunder. A public hearing on each individual proposal for an adult day health care center shall be held by the local adult day health councils or local councils of governments in the county to be served. In order to provide the greatest public input, the hearing should preferably be held in the services area to be served.

This section shall remain in effect only until three years from the date upon which responsibility for the adult day health care program is transferred to the Department of Aging, and as of that date is repealed, unless a later enacted statute enacted prior to that date extends or deletes that date.

SEC. 5. Section 1572 is added to the Health and Safety Code, to read:

1572. The Director of Health Services shall establish a distinct organizational entity within the state department which shall have primary responsibility for the adult day health care program. This entity shall coordinate and direct all required departmental activities for adult day health care.

An Adult Day Health Care Review Committee is hereby

established in the State Department of Health Services. The committee shall include a representative of the Department of Aging, the California Commission on Aging, and each appropriate functional division within the state department, as determined by the director (including alternative health systems, social services, Medi-Cal, rates and fees, and licensing and certification). The committee shall assist the director in developing policies and procedures for regulation of adult day health care pursuant to this chapter and respecting reimbursement therefor under the Medi-Cal Act. Additionally, the functions of the committee shall include the following:

(a) The committee shall develop guidelines for adoption by the director setting forth principles for evaluation of community need for adult day health care, which shall take into consideration the desirability of coordinating and utilizing existing resources, avoidance of duplication of services and inefficient operations, and locational preferences with respect to accessibility and availability to the economically disadvantaged older person.

(b) The committee shall review county plans submitted pursuant to Section 1572.9. Such county plans shall be approved if consistent with the guidelines adopted by the director pursuant to subdivision (a).

(c) The committee shall review and make recommendations to the director concerning individual proposals for startup funds and for original licensure of proposed adult day health centers. Such review may include onsite inspections by the committee, or a special subcommittee thereof, for the purpose of evaluating a proposed provider or its facility. The basis of such review shall be the approved county plan and an evaluation of the ability of the applicant to provide adult day health care in accordance with the requirements of this chapter and regulations adopted hereunder. A public hearing on each individual proposal for an adult day health care center shall be held by the committee in the county to be served. In order to provide the greatest public input, the hearing should preferably be held in the services area to be served.

This section shall become operative three years after responsibility for the Adult Day Health Care program has been transferred to the Department of Aging.

SEC. 6. Section 1588 of the Health and Safety Code is amended to read:

1588. (a) The state department shall, subject to the availability of funds appropriated therefor, conduct a grants-in-aid program for the following purposes:

(1) To assist in the establishment of new adult day health care centers.

(2) To assist in stabilizing the health care operations of adult day health care centers which have been licensed in the previous two years prior to the operative date of this article.

(3) To fund innovative and creative adult day health care

programs designed to provide a high quality of health services at a minimum cost.

(b) The grants authorized pursuant to this article shall be limited in purpose to defraying operating expenses of the center, including staffing costs, required renovation cost, and facility rental costs.

SEC. 7. Section 1588.2 of the Health and Safety Code is amended to read:

1588.2. Eligibility for grants pursuant to this article shall be limited to any public or private nonprofit agency. The grant amount available for a single project shall not exceed fifty thousand dollars ($50,000). As a condition of making a grant, the director shall require the applicant to match not less than 20 percent of the amount granted. The required match may be cash or in-kind contributions, or a combination of both. In-kind contributions may include, but shall not be limited to, staff and volunteer services.

SEC. 8. Section 1588.5 of the Health and Safety Code is amended to read:

1588.5. In developing policies and priorities pertaining to the allocation of grant funds, the state department shall give primary consideration to the following factors:

(a) The applicant's need for funds.

(b) The demonstrated community support for the project.

(c) The applicant's long-term prospects for financial stability.

(d) The applicant's demonstrated marketing strategies.

(e) The applicant's ability to provide innovative services and to coordinate other services in the continuum of care.

(f) Special consideration shall be given to any applicant who is in any one of the following categories:

(1) Applicants in rural areas.

(2) Applicants in counties where there are no other centers.

(3) Applicants who deliver services in an area with a high elderly ethnic minority population.

(4) Applicants who deliver services in an area with a high number of elderly Medi-Cal beneficiaries.

SEC. 9. Section 1588.7 of the Health and Safety Code is amended to read:

1588.7. (a) The state department shall adopt specific guidelines for the establishment of grant-supported activities, including criteria for evaluation of each activity and monitoring to assure compliance with grant conditions and applicable regulations of the state department. The guidelines shall be developed in consultation with the Adult Day Health Care Review Committee. Funds shall not be awarded until the proposal receives favorable recommendation from the local adult day health planning council, as established pursuant to Section 1572.5, and is approved by the state department.

(b) The state department shall develop a contract with each selected project.

SEC. 10. Section 1589.5 is added to the Health and Safety Code, to read:

1589.5. One million dollars ($1,000,000) is hereby appropriated, without regard to fiscal year, from the General Fund to the State Department of Health Services to provide grants and to defray administrative expenses incurred pursuant to this article. These funds, and the authority to administer the grant program under this article, shall be transferred to the Department of Aging, at the time of the transfer of responsibility for adult day health care administration to the Department of Aging from the state department, pursuant to Section 1572.

SEC. 11. Section 9201 of the Welfare and Institutions Code, as added by Section 6 of Chapter 912 of the Statutes of 1980, is amended to read:

9201. The duties and functions of the commission shall be to:

(a) Serve as the principal advocate body in the state on behalf of older persons, including, but not limited to, advisory participation in the consideration of all legislation and regulations made by state and federal departments and agencies relating to programs and services that affect older persons.

(b) Participate with the department in training workshops for community, regional and statewide senior advocates, to help older persons understand legislative, regulatory and program implementation processes.

(c) Prepare, publish and disseminate information, findings and recommendations regarding the well-being of older adults.

(d) Actively participate and advise the Department of Aging in the development and preparation of the State Plan on Aging, conduct public hearings on the State Plan on Aging, review and comment on the state plan, and monitor the progress of the plans' implementation.

(e) Meet formally on a monthly basis in order to study problems of older persons, present findings and make recommendations.

(f) At least six of the meetings shall be with the director and at least six of the meetings shall be held in various parts of the state.

(g) Hold hearings throughout the state, in order to gather information and advise the Governor, Legislature, Department of Aging and agencies on all levels of government regarding solutions to problems confronting older persons and the most effective use of existing resources and available services for older persons.

(h) Hire an executive director and, within budgetary limits, such staff as may be necessary for the commission to fulfill its duties.

(i) Develop in cooperation with the department a method for the selection of delegates to the statewide legislative meeting of senior advocates.

(j) The commission shall solicit the advice and recommendations of the California Interdepartmental Committee on Aging (CICA) in a manner that shall include, but not be limited to, attending at least six meetings chosen by the CICA membership, and active involvement by the members of the CICA in providing technical assistance to the committees of the commission.

(k) Perform other duties as may be required by statute, regulation or resolution.

(*l*) Meet and consult with the area agency on aging advisory councils in order to exchange information, and assist in training, planning, and development of advocacy skills.

(m) The commission shall appoint by January 1, 1985:

(1) A long-term care committee composed of members of the commission, the aging community, the California Council on Developmental Disabilities, the Rehabilitation Advisory Committee of the California Department of Rehabilitation, and five members selected from a list of nominees submitted by the Area Boards of Developmental Disabilities and the California Coalition of Independent Living Centers.

(2) An Operational Policy Development Committee whose membership shall include representatives of area agency advisory councils, area agency staff, service providers under Title III of the federal Older Americans Act (42 U.S.C. Sec. 3021 et seq.), senior citizen organizations, and a liaison from the department to advise the commission on policy decisions affecting older persons.

SEC. 12. Section 9315 is added to the Welfare and Institutions Code, to read:

9315. (a) The department shall implement by July 1, 1985, a new intrastate funding formula in accordance with all federal regulations. This formula shall apply to all federal and state funds allocated for programs provided for under Title III of the federal Older Americans Act (42 U.S.C. Sec. 3021, et seq.).

The intrastate funding formula shall include all of the following:

(1) Assurances that all area agencies on aging shall have a fifty thousand dollar ($50,000) administrative base with the remainder of the allowable administrative dollars allocated to planning and service area on the basis of number of persons over the age of 60 years.

Area agencies on aging shall use no state funds for administrative purposes.

(2) Where data is available, an annual adjustment for changes in population characteristics to include the number of persons per planning and service area over the age of 60 years and persons in greatest economic or social need as measured by all of the following variables:

(A) Number of persons over the age of 65 years receiving aid under the State Supplementary Program, provided for under Chapter 3 (commencing with Section 12000) of Part 3 of Division 9.

(B) Number of persons over the age of 75 years.

(C) Number of minority elderly over the age of 60 years.

(D) Number of persons over the age of 60 years living alone.

(E) Number of non-English speaking persons over the age of 60 years.

The weight given to each variable shall simulate the weighting used in the Washington State intrastate funding formula adjusting for

the geographic factor.

(3) A rural factor which guarantees a 105 percent allocation to rural planning and service areas.

(4) A hold-harmless factor which guarantees that no planning and service area shall have its federal and state allocation of funds under Title III of the federal Older Americans Act (42 U.S.C., Sec. 3021, et seq.), excluding area agency on aging administrative costs and funds carried over from the 1983–84 fiscal year, reduced below the 1984–85 fiscal year funding levels.

(b) In the event that additional federal or state funds, in excess of those appropriated under the 1984–85 Budget Act, excluding those referenced in subdivision (d), or subsequent Budget Acts are made available for services, these funds shall be used to maintain existing service levels, with the remainder to be distributed to those planning and service areas which have been determined by the department to be underequity until parity is achieved.

(c) The distribution of one-time-only funds shall not be according to the intrastate funding formula.

(d) The department shall develop, in conjunction with the commission, a methodology for the redistribution of one-time-only funds utilizing the request for proposal process, which addresses one of the following priority areas:

(1) The purchase of capital equipment which enhances the delivery of services to those seniors identified as being in greatest social or economic need as determined by the local planning process.

(2) Innovative pilot projects which emphasize outreach efforts to increase the level of services to those intraplanning and service areas determined by the local planning process to be underserved.

(3) Innovative pilot projects which encourage families to maintain their elderly members in the home environment.

(4) Other innovative pilot projects which address those priority service areas as determined by the department in consultation with the commission.

(e) The department shall develop, in conjunction with the intrastate funding formula, a methodology for assuring compliance with the state targeting strategy on an intraplanning and service area basis. In developing this methodolgy the department shall provide assurances that as additional federal and state service dollars are allocated to the planning and service areas these dollars will be expended on those elderly persons identified as in greatest economic or social need.

SEC. 13. Section 9316 is added to the Welfare and Institutions Code, to read:

9316. The director shall establish a distinct organizational entity within the department, which shall have primary responsibility for the adult day health care program, as provided for in Chapter 3.5 (commencing with Section 1570) of Division 2 of the Health and Safety Code, and Chapter 8.7 (commencing with Section 14520) of Part 3 of Division 9. This entity shall coordinate and direct all

required departmental activities for the adult day health care program as performed by the Office of Long-Term Care and Aging, created pursuant to Section 1572 of the Health and Safety Code in the State Department of Health Services as of June 30, 1984.

The department and the State Department of Health Services shall develop an interagency agreement to ensure administration and program effectiveness. This agreement shall include provisions whereby the State Department of Health Services and the department shall collaborate in the development and implementation of health programs and services for older persons.

This section shall remain in effect only until three years from the date upon which responsibility for the Adult Day Health Care program is transferred to the Department of Aging, and as of that date is repealed, unless a later enacted statute enacted prior to that date extends or deletes that date.

SEC. 14. Section 9317 is added to the Welfare and Institutions Code, to read:

9317. The department shall have a Division of Long-Term Care which shall be responsible for long-term care programs for frail elderly and functionally impaired adults including the adult day health care program, the Alzheimer's disease programs, and any other long-term care programs which the Legislature authorizes in the department.

SEC. 15. Notwithstanding proviso (4) of Item 4170-101-001 of Chapter 258 of the Statutes of 1984, four hundred fifty thousand dollars ($450,000) of the funds appropriated by Item 4170-101-001 shall be for the purposes of either Senate Bill 1803 of the 1983–84 Regular Session or Section 2 of this act, if either Senate Bill 1803 or this act is chaptered. Otherwise, this amount shall be unavailable for expenditure and shall revert to the General Fund.

SEC. 16. Sections 1 to 4, inclusive, 6 to 10, inclusive, and 13 of this act shall become operative, on a retroactive basis, commencing July 1, 1984.

SEC. 17. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to serve the needs of eligible recipients of Medi-Cal benefits and to implement urgency legislation enacted in 1983 regarding adult day health care, it is necessary that this act take effect immediately as an urgency statute.

CHAPTER 1601

An act to add Article 7.2 (commencing with Section 412) to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, relating to health, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

I am reducing the appropriation contained in Section 2 of Assembly Bill No. 2225 from $4,000,000 to $1,000,000.

I am in full support of establishing Alzheimer's diagnostic and treatment centers at postsecondary higher educational institutions as well as examine the cause and cure for Alzheimer's Disease. However, I am making this reduction since there is a significant level of funding for research in Alzheimer's Disease outside of California This bill would provide $1 million which is consistent with by Seniors Initiative for Californians.

With this reduction, I approve Assembly Bill No 2225

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Article 7.2 (commencing with Section 412) is added to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, to read:

Article 7.2. Alzheimer's Disease

412. (a) The Legislature finds that Alzheimer's disease, a devastating disease which destroys certain vital cells of the brain, affects more than 1,500,000 Americans. The Legislature also finds that Alzheimer's disease is responsible for 50 percent of all nursing home admissions and is the fourth leading cause of death among older Americans. The Legislature recognizes that the disease has serious emotional, financial, and social consequences for its victims and their families.

(b) The Legislature recognizes that the cause of Alzheimer's disease is presently unknown, and there is no established treatment which can cure, reverse, or stop the progression of Alzheimer's disease. The Legislature also recognizes that research is the only hope for victims and families. Despite the need to make progress against this disease, the Legislature finds that none of California's postsecondary higher educational institutions with medical centers have diagnostic and treatment centers with sufficient resources to improve the quality of care available to the victims of Alzheimer's disease and to increase knowledge with respect to this disease. It is the intent of the Legislature, in enacting this article, to encourage the establishment of several geographically dispersed diagnostic and treatment centers for Alzheimer's disease within a postsecondary higher educational institution with a medical center, and to

encourage research to discover the cause of, and a cure for, Alzheimer's disease.

(c) The functions of the diagnostic and treatment centers shall be designed to serve all of the following purposes:

(1) To provide diagnostic and treatment services and improve the quality of care to victims of Alzheimer's disease.

(2) To increase research by faculty and students in discovering the cause of, and a cure for, Alzheimer's disease.

(3) To provide training, consultation, and continuing education to the families of those who are affected by Alzheimer's disease.

(4) To increase the training of health care professionals with respect to Alzheimer's disease.

413. (a) Any postsecondary higher educational institution with a medical center may establish diagnostic and treatment centers for Alzheimer's disease.

(b) The State Department of Health Services shall administer grants to postsecondary higher educational institutions which establish diagnostic and treatment centers pursuant to subdivision (a).

(c) Alzheimer's disease grants for the purpose of establishing a diagnostic and treatment center shall be used only for the purposes of this article, including, but not limited to, all of the following:

(1) Salary and benefits for faculty, residents, fellows, and staff of the diagnostic and treatment center.

(2) Costs of supplies and equipment.

(3) Research grants for faculty research to discover the cause of, and a cure for, Alzheimer's disease.

(4) Research grants for students, residents, and fellows.

(5) General administrative costs of up to 8 percent of the total grant.

(d) The State Department of Health Services shall administer a grant program for the purpose of research to discover the cause of, and a cure for, Alzheimer's disease.

(e) The State Department of Health Services shall establish criteria for requests for Alzheimer's disease diagnostic and treatment center grants and Alzheimer's disease research grants, and for program evaluation.

(f) No grant awarded pursuant to this article shall be approved for any amount which exceeds 25 percent of the total amount of funds appropriated for this purpose in the 1983–84 Regular Session of the Legislature.

(g) The State Department of Health Services shall reduce any grant made pursuant to this article by the amount of any federal funds available for the same purposes to the same grantee.

(h) In January 1986, the State Department of Health Services shall submit a report to the Legislature regarding the progress of the grant programs established pursuant to this article. The report shall include, but not be limited to, all of the following elements:

(1) A description of the progress made in implementing the

programs.

(2) The number of diagnostic and treatment centers established.

(3) The characteristics and numbers of persons served by the programs.

(4) The costs of the programs.

(5) An evaluation of the programs.

SEC. 2. The sum of four million dollars ($4,000,000) is hereby appropriated from the General Fund to the State Department of Health Services for grants to diagnostic and treatment centers and research for Alzheimer's disease, as specified in Section 1 of this act.

CHAPTER 1602

An act to amend Sections 8263, 8410, 8422, and 8423 of, to add Section 8212.5 to, and to repeal Section 8263.5 of, the Education Code, relating to child care and development, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

I am deleting the $7,641,000 appropriation contained in Section 8 of Assembly Bill No. 2514.

I support the provisions of this bill which are intended to clarify existing regulations and procedures with regard to child care programs. However, additional funding for child care programs has been addressed in AB 3138.

With this deletion, I approve Assembly Bill No. 2514.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 8212.5 is added to the Education Code, to read:

8212.5. (a) On or before January 1, 1985, the Superintendent of Public Instruction shall designate a child care resource and referral program to serve the defined geographic area in Alameda County consisting of the Cities of Albany, Alameda, Berkeley, Emeryville, Oakland, and Piedmont.

(b) If the superintendent determines that more than one resource and referral program exists in the defined geographic area designated in subdivision (a), the superintendent shall issue a request for proposals to select a single program to serve that area. The criteria for the selection of the program shall be all of the following:

(1) Current and continuous satisfactory performance as a resource and referral agency providing the full range of services

specified by Section 8212.

(2) Full fiscal and program compliance with contract requirements established by the State Department of Education.

(3) Cost effectiveness.

(4) Extent and quality of service to the community.

(c) The superintendent shall reallocate any funds made available through nonrenewal of a contract for resource and referral services for purposes of providing nonduplicative child development services in the manner he or she determines most appropriate.

(d) Satisfactory contract performance by a resource and referral program shall be a condition for the renewal of that contract in the subsequent fiscal year.

SEC. 2. Section 8263 of the Education Code is amended to read:

8263. (a) The Superintendent of Public Instruction shall adopt such rules and regulations on eligibility, enrollment, and priority of services as needed to implement this chapter. In order to be eligible for federal and state subsidized child development services, families shall meet at least one requirement in each of the following areas:

(1) A family shall be (A) a current aid recipient, (B) income eligible, or (C) one whose children are recipients of protective services, or whose children have been identified as being abused, neglected, or exploited, or at risk of being abused, neglected, or exploited.

(2) A family shall need the child care service because the child is identified by a legal, medical, or social service agency as being (A) a recipient of protective services, (B) being neglected, abused, or exploited, or at risk of neglect, abuse, or exploitation, or (C) having a medical or psychiatric special need which cannot be met without provision of child day care, or the parents are (i) engaged in vocational training leading directly to a recognized trade, paraprofession, or profession, (ii) employed or seeking employment, or (iii) incapacitated, including a medical or psychiatric special need which cannot be met without provision of child day care.

(b) Priority for state and federally subsidized child development services shall be as follows:

(1) First priority shall be given to recipients of child protective services for children who are neglected or abused, or at risk of being neglected or abused, upon written referral from a legal, medical, or social service agency. When an agency is unable to enroll a child in the first priority category, the agency shall refer the family to local resource and referral services to locate services for the child.

(2) Second priority shall be equally given to eligible families, regardless of the number of parents in the home, who are income eligible. Within this priority, families with the lowest gross monthly income shall be admitted first. For purposes of determining order of admission, the grants of public assistance recipients shall be counted as income.

(3) The superintendent shall set criteria for and may grant specific waivers of the priorities established in this subdivision for

agencies which wish to serve specific populations, such as handicapped children or children of prisoners. These new waivers shall not include proposals to avoid appropriate fee schedules or admit ineligible families, but may include proposals to accept members of special populations in other than strict income order, as long as appropriate fees are paid.

(c) A physical examination and evaluation, including age-appropriate immunization, shall be required prior to, or within six weeks of, enrollment. No standard, rule, or regulation shall require medical examination or immunization for admission to a child care and development program of a child whose parent or guardian files a letter with the governing board of the child care and development program stating that the medical examination or immunization is contrary to his or her religious beliefs, or provide for the exclusion of a child from the program because of a parent or guardian having filed the letter. However, whenever there is good cause to believe that a child is suffering from a recognized contagious or infectious disease, the child shall be temporarily excluded from the program until the governing board of the child care and development program is satisfied that any contagious or infectious disease does not exist.

(d) Regulations formulated and promulgated pursuant to this section shall include the recommendations of the State Department of Health Services relative to health care screening and the provision of health care services. The Superintendent of Public Instruction shall seek the advice and assistance of these health authorities in situations where service under this chapter includes or requires care of ill or disabled children.

(e) The Superintendent of Public Instruction shall establish a fee schedule for families utilizing child care and development services pursuant to this chapter.

(f) The superintendent shall establish a separate fee schedule for collecting child care fees from recipients of benefits under the Aid to Families with Dependent Children program who have outside income. The fee schedule shall be based upon the amount of income required to be disregarded due to expenditures for child care pursuant to Section 602 (8) (A) (iii) of Title 42 of the United States Code. In establishing the fee schedule, the superintendent shall take into consideration the income of the recipient remaining after an amount equal to federal and state income taxes and work related expenses disregarded pursuant to federal AFDC regulations has been deducted. In no event shall the fee established exceed any of the following:

(1) The maximum amount of income per child permitted to be disregarded pursuant to Section 602 (8) (A) (iii) of Title 42 of the United States Code.

(2) The actual cost of child care.

Prior to the implementation of the fee schedule, the superintendent shall conduct a public hearing regarding the fee

schedule. The fee schedule shall not be implemented if the superintendent determines that charging and collecting the fee would result in a significant loss in spendable income to the family.

(g) The child care and development agency collecting the fees established pursuant to subdivision (f) shall be entitled to keep an amount not to exceed 50 percent of the amount collected for purposes of serving additional eligible children. The balance of the amount collected shall be remitted to the State Department of Education for expenditure for the following purposes:

(1) To reimburse the State Department of Social Services and county welfare departments for any increase in costs of the Aid to Families with Dependent Children program caused by implementation of this section.

(2) Any balance remaining shall be disbursed pursuant to Section 15053 of the Unemployment Insurance Code.

(h) The superintendent shall establish guidelines for the collection of employer sponsored child care benefit payments from any parent whose child receives subsidized child care and development services. These guidelines shall provide for the collection of the full amount of the benefit payment, but not to exceed the actual cost of child care and development services provided, notwithstanding the applicable fee based on the fee schedule.

(i) The Superintendent of Public Instruction shall establish guidelines according to which the director or a duly authorized representative of the child care and development program will certify children as eligible for state reimbursement pursuant to this section.

(j) No public funds shall be paid directly or indirectly to any agency which does not pay at least the minimum wage to each of its employees.

SEC. 3. Section 8263.5 of the Education Code is repealed.

SEC. 4. Section 8410 of the Education Code is amended to read:

8410. This article shall become inoperative on June 30, 1986, and as of January 1, 1987, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1987,, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 8422 of the Education Code is amended to read:

8422. The purpose of the child care and employment fund shall be to provide child care services for the children of participants in the service delivery area's job training and placement programs established pursuant to the federal Job Training Partnership Act (P.L. 97-300).

To the extent that funding is available, children referred by private industry councils shall be provided the child care necessary to permit their parents to participate in program activities under the federal Job Training Partnership Act, notwithstanding the eligibility and need criteria established by subdivision (a) of Section 8263, or the admission priorities established by subdivision (b) of Section

8263.

SEC. 6. Section 8423 of the Education Code is amended to read:

8423. (a) It is the intent of the Legislature that any program expansion which results from the enactment of this article shall be continued only to the extent that funds are made available from the sources identified in subdivision (b).

(b) Funding for each local service delivery area's child care and employment fund shall include, but not be limited to, all of the following:

(1) Social services funds appropriated to the State Department of Social Services for that purpose. These funds shall be available to the extent that they are (A) designated by the Legislature for child care, and (B) transferred to the State Department of Education pursuant to an interagency agreement for distribution to each local child care and employment fund using the formula established pursuant to Section 15053 of the Unemployment Insurance Code. These funds shall be available effective the date that the child care and employment fund is established.

(2) Funds designated for child care by the private industry council, established pursuant to Section 15030 of the Unemployment Insurance Code, but not less than 50 percent of the cost of care for every recipient of job training or placement services funded using the area's federal Job Training Partnership Act (P.L. 97-300) appropriation, whose job readiness assessment includes the need for child care. Funds expended during the 1983–84 fiscal year may be used to match funds provided in the 1984–85 fiscal year pursuant to paragraph (1). The private industry council may refer, for information, all participants who need or use child care to the agency administering the child care and employment fund. The private industry council shall provide funds only for those participants whose child care needs are not met by other community resources and whose child care needs can be met within the council's annual budget. The private industry council and the child care and employment fund agency shall negotiate the local contract for child care. In negotiating the terms of the contract, the private industry council and the child care and employment fund agency shall consider relevant factors which shall include, but not be limited to, the number of parents to be served and the cost of care available in the local child care market.

(3) Funds designated pursuant to paragraph (2) of subdivision (g) of Section 8263 for, and disbursed to local child care and employment funds pursuant to Section 15053 of the Unemployment Insurance Code by, the State Department of Education.

SEC. 6.5. From funds appropriated to the Department of Social Services pursuant to paragraph (2) of category (c) of Item 5180-151-866 of the Budget Act of 1984, the Superintendent of Public Instruction may, subject to the approval of the Department of Finance, receive reimbursement for administrative and program development costs of implementing Article 19 (commencing with

Section 8420) of Chapter 2 of Part 6 of, and subdivision (f) of Section 8263 of, the Education Code.

SEC. 7. Notwithstanding Section 81178 of the Education Code, the governing board of the Palo Verde Community College District may use facilities known as the Palo Verde College Child Development Center located at 150 South Main Street, Blythe, California, for a period of two years after the effective date of this act. During the period of use authorized by this section, the building and related facilities shall not be subject to Article 7 (commencing with Section 81130) or Article 8 (commencing with Section 81160) of Chapter 1 of Part 49 of the Education Code.

SEC. 8. (a) The sum of seven million six hundred forty-one thousand dollars ($7,641,000) is hereby appropriated from the General Fund to the State Department of Education in accordance with the following schedule:

(1) Nine hundred thirty-three thousand dollars ($933,000) for allocation to, and in augmentation of, project (p) of Item 6100-226-001 of the Budget Act of 1984.

(2) Six million seven hundred eight thousand dollars ($6,708,000) for allocation to, and in augmentation of, project (q) of Item 6100-226-001 of the Budget Act of 1984.

(b) It is the intent of the Legislature in making this appropriation to restore funding for preschool education and child care services to the level contained in the Budget Act of 1984 prior to the Governor's reduction of those amounts.

SEC. 9. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to permit the changes made by this act in the funding formula for each local service delivery area's child care and development fund to take effect in time to stimulate a positive response from private industry councils before allocations for child care are made for the 1984–85 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 1603

An act to add Section 8264.5 to the Education Code, relating to child care and development, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

I am reducing the appropriation contained in Section 5 of Assembly Bill No. 3138 from $4 million to $1.5 million by deleting the appropriations which provide for program expansion contained in Schedules (b), (c), and (d). I have approved the $1.5 million to insure that all counties of this state have the services of child care resources and referral agencies.

I have also reduced the appropriation contained in Section 6 from $7,641,000 to $2 6 million. This will provide a 1 percent cost of living adjustment which is sufficient to keep these programs in line with the economy as measured by the Consumer Price Index.

With these reductions and deletions, I approve Assembly Bill No. 3138.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. It is the intent of the Legislature that:

(a) Parents who are working or continuing their education or training have access to child development services throughout California.

(b) Resources for parents and providers of child development services be available statewide.

(c) Reasonable modification or waivers of child development regulations be permitted in areas of low population to enable service availability though the combination of various program types.

SEC. 2. It is the intent of the Legislature to provide funding to expand the child care resource and referral programs to unserved and underserved counties. Where appropriate, the same resource and referral program may serve adjacent counties. The State Department of Education shall select a nonprofit organization which shall provide startup training and technical assistance for newly funded or expanded resource and referral programs.

SEC. 3. Section 8264.5 is added to the Education Code, to read:

8264.5. The Superintendent of Public Instruction may waive or modify child development requirements in order to enable child development programs to serve combinations of eligible children in areas of low population. The child development programs for which the superintendent may grant waivers shall include, but need not be limited to, state preschool programs, school-age parenting programs, infant care and development services, migrant child care and development programs, campus child care and development programs, and general child care and development programs.

SEC. 4. Notwithstanding Section 8278 of the Education Code, the

first one million dollars ($1,000,000) of unearned contract funds which remain unspent by child development agencies at the close of the 1983–84 fiscal year after the Superintendent of Public Instruction has paid all accounts, shall revert to the unappropriated surplus of the General Fund.

SEC. 5. The sum of four million dollars ($4,000,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for allocation according to the following schedule:

(a) One million five hundred thousand dollars ($1,500,000) for the expansion of child care resource and referral programs. Of this sum, thirty thousand dollars ($30,000) shall be allocated for training and technical assistance. The State Department of Education shall select a nonprofit organization to provide these services. The organization selected shall have demonstrated experience and expertise in the provision of training and technical assistance to new and existing resource and referral programs.

(b) One million dollars ($1,000,000) for the expansion of child development programs in rural areas currently unserved or underserved.

(c) One million one hundred thousand dollars ($1,100,000) for the acquisition of relocatable facilities for migrant and rural infant and child development.

(d) Four hundred thousand dollars ($400,000) for the renovation and repair of child development facilities to ensure compliance with state and local health and safety standards.

The Superintendent of Public Instruction shall adopt regulations for the allocation of funds provided pursuant to this subdivision in order to benefit children most needing child care and development programs. The first priority for funding shall go to facilities located in geographic areas with no other available enrollment slots in existing subsidized and nonsubsidized child care and development facilities. All funds shall be used solely for the purposes of renovation and repair of exisiting buildings.

The Superintendent of Public Instruction shall establish qualifications for determining the eligibility of contracting agencies to apply for these funds.

(e) The superintendent shall allocate 1.7 percent of the amounts appropriated in subdivisions (a), (b), (c), and (d) to the Office of Child Development for the administration of those programs.

SEC. 6. (a) The sum of seven million six hundred forty-one thousand dollars ($7,641,000) is hereby appropriated from the General Fund to the State Department of Education in accordance with the following schedule:

(1) Nine hundred thirty-three thousand dollars ($933,000) for allocation to, and in augmentation of, project (p) of Item 6100-226-001 of the Budget Act of 1984.

(2) Six million seven hundred eight thousand dollars ($6,708,000) for allocation to, and in augmentation of, project (q) of Item 6100-226-001 of the Budget Act of 1984.

(b) It is the intent of the Legislature in making this appropriation to restore funding for preschool education and child care services to the level contained in the Budget Act of 1984 prior to the Governor's reduction of those amounts.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to permit this act to become operative as early as possible in the 1984–85 fiscal year, and so facilitate the orderly administration of child development programs it is necessary that this act take effect immediately.

CHAPTER 1604

An act to amend Sections 8208, 8250, 8265, and 8265.5 of, and to add Section 8262.5 to, the Education Code, relating to child care and development programs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

Senate Bill No 1674 contains provisions which would maintain the integrity of existing child care programs, therefore, I am signing this bill. However, I am reducing the appropriation in this bill from the $23.9 million to $4.4 million. I am reducing the appropriation for the purpose of increasing reimbursement levels of underfunded child care and development services, which includes preschools, from $5 million to $3 million. I feel this amount will provide the necessary funds to maintain existing programs.

I am also reducing the appropriation for the purpose of child care expansion from $15 million to $1 million which I intend to be used for respite child care pursuant to Education Code 8252.

I am eliminating the $1 5 million for increasing reimbursement levels of State preschool programs, since these programs are not precluded from the availability of the appropriation which has been retained for that purpose.

I am also eliminating the $2 million appropriation for allocation to the Office of Child Development for administration of existing child care and development services, as this bill provides administrative costs associated with the provisions contained in the bill

I am also approving the $400,000 appropriation for expansion for services to children with exceptional needs.

The problem of funding child care is a problem of growing concern in California The issues surrounding the problems of general child care are complex and interdependent. Child care services must be viewed in terms of their affordability, availability, accessibility, quality, and cost effectiveness. However, the child care needs in California have not been thoroughly evaluated and alternatives to existing programs have not been fully identified, therefore, I have established a child care task force to explore this issue and to make recommendations by March 31, 1985. In that way, we can ensure that realistic answers to the child care problem in California can be found.

With these reductions and deletions, I approve Senate Bill No 1674.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. It is the intent of the Legislature that:

(a) Parents who are working or continuing their education or training have access to child care and development services throughout California.

(b) Child care and development programs be expanded to increase services to eligible families.

(c) Child care and development programs be funded at levels that promote program quality.

(d) Child care and development programs be awarded an annual cost-of-living adjustment equivalent to that awarded programs for kindergarten and grades 1 through 12 to ensure the ability of school districts and county offices or education to continue to operate child care and development programs.

(e) The Office of Child Development be funded at a level appropriate to the administration of the programs within its jurisdiction.

(f) Parents who have children with exceptional needs have access to child care and development services throughout California.

SEC. 2. Section 8208 of the Education Code is amended to read:

8208. As used in this chapter:

(a) "Assigned reimbursement rate" is that rate established by the contract with the agency and is derived by dividing the total dollar amount of the contract by the minimum average daily enrollment level of service required.

(b) "Alternative payments" includes payments which are made by one child care agency to another agency or child care provider for the provision of child care and development services, and payments which are made by an agency to a parent for the parent's purchase of child care and development services.

(c) "Applicant or operating agency" means a school district, community college district, college or university, county superintendent of schools, county, city, public agency, private non-tax-exempt agency, private tax-exempt agency, or other entity which is authorized to establish, maintain, or operate services pursuant to this chapter. Private agencies and parent cooperatives, duly licensed by law, shall receive the same consideration as any other authorized entity with no loss of parental decisionmaking prerogatives as consistent with the provisions of this chapter.

(d) "Attendance" means the number of children present at a child care and development facility. "Attendance," for the purposes of reimbursement, includes excused absences by children because of illness, quarantine, illness or quarantine of their parent, family emergency, or to spend time with a parent or other relative as required by a court of law or which is clearly in the best interest of

the child.

(e) "Capital outlay" means the amount paid for the renovation and repair of child care and development facilities to comply with state and local health and safety standards, and the amount paid for the state purchase of relocatable child care and development facilities for lease to qualifying contracting agencies.

(f) "Caregiver" means a person who provides direct care, supervision, and guidance to children in a child care and development facility.

(g) "Child care and development facility" means any residence or building or part thereof in which child care and development services are provided.

(h) "Child care and development programs" means those programs which offer a full range of services for children from infancy to 14 years of age, for any part of a day, by a public or private agency, in centers and family child care homes. These programs include, but are not limited to, all of the following:

(1) Campus child care and development.

(2) General child care and development.

(3) Intergenerational child care and development.

(4) Migrant child care and development.

(5) School-age parenting and infant development.

(i) "Child care and development services" means those services designed to meet a wide variety of needs of children and their families, while their parents or guardians are working, in training, seeking employment, incapacitated, or in need of respite. These services include direct care and supervision, resource and referral programs, and alternative payment arrangements.

(j) "Children at risk of abuse, neglect, or exploitation" means children who are identified as such in a written referral from a legal, medical, or social service agency.

(k) "Children with exceptional needs" means children who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multihandicapped, severely handicapped, or children with specific learning disabilities, who require the special attention of adults in a child care setting. Children with exceptional needs who are between the ages of birth and 21 years, inclusive, shall also meet the criteria for that age group specified in Section 56026.

(*l*) "Children with special needs" includes infants to the age of two; limited-English-speaking and non-English-speaking children; children with exceptional needs; and children at risk of neglect, abuse, or exploitation.

(m) "Close-down costs" means reimbursements for all approved activities associated with the closing of operations at the end of each growing season for migrant child development programs only.

(n) "Contracting agency" means a private nonprofit agency, private proprietary agency, family child care provider, school

district, community college district, county superintendent of schools, county welfare department, county, city, or other entity which is authorized to establish, maintain, or operate services pursuant to this chapter. Private agencies and parent cooperatives, duly licensed by law, shall receive the same consideration as any other authorized entity with no loss of parental decisionmaking prerogatives as consistent with the provisions of this chapter.

(o) "Cost" includes, but is not limited to, expenditures that are related to he operation of child development programs. "Cost" may include a reasonable amount for state and local contributions to employee benefits, including approved retirement programs, agency administration, and any other reasonable program operational costs.

(p) "Elementary school," as contained in Section 425 of Title 20 of the United States Code (the National Defense Education Act of 1958, Public Law 85-864, as amended), includes early childhood education programs and all child development programs, for the purpose of the cancellation provisions of loans to students in institutions of higher learning.

(q) "Group" means a cluster of children under the direct supervision of one or more caregivers.

(r) "Group size" means the total number of children assigned to one or more caregivers.

(s) "Severely handicapped children" means children under the age of six years who need intensive special education services and who satisfy the applicable requirements of Section 56026 or 56030.5, and children from age 6 to 21 years, inclusive, who meet the criteria established by Section 56030.5. These children, ages birth to 21 years, inclusive, may be assessed by public school special education staff, regional center staff, or another appropriately licensed clinical professional.

(t) "Health services" includes, but is not limited to, all of the following:

(1) Referral, whenever possible, to appropriate health care providers able to provide continuity of medical care.

(2) Health screening and health treatment, including a full range of immunization recorded on the appropriate state immunization form to the extent provided by the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code) and the Child Health and Disability Prevention Program (Article 3.4 (commencing with Section 320) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code), but only to the extent that ongoing care cannot be obtained utilizing community resources.

(3) Health education and training for children, parents, staff, and providers.

(4) Followup treatment through referral to appropriate health care agencies or individual health care professionals.

(u) "Higher educational institutions" means the Regents of the

University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, and the governing bodies of any private nonprofit institution of postsecondary education.

(v) "Intergenerational staff" means persons of various generations.

(w) "Limited English-speaking and non-English-speaking children" means children who are unable to benefit fully from an English-only child care and development program as a result of either of the following:

(1) Having used a language other than English when they first began to speak.

(2) Having a language other than English predominantly or exclusively spoken at home.

(x) "Parent" means any person living with a child who has responsibility for the care and welfare of the child.

(y) A "proprietary child care agency" means an organization or facility providing child care, which is operated for profit.

(z) "Resource and referral programs" means programs that provide information to parents, including referrals and coordination of community resources for parents and public or private providers of care. Services frequently include, but are not limited to: technical assistance for providers, toy-lending libraries, equipment-lending libraries, toy- and equipment-lending libraries, staff development programs, health and nutrition education, and referrals to social services.

(aa) "Respite child care" means child care service provided for less than 24 hours per day, to assist families whose children have been identified through referral as being neglected, abused, or exploited, or at risk of being neglected, abused, or exploited.

(bb) "Standard reimbursement rate" means that rate established by the Superintendent of Public Instruction pursuant to Section 8265.

(cc) "Startup costs" means those expenses an agency incurs in the process of opening a new or additional facility prior to the full enrollment of children.

(dd) "State preschool services" means part-day educational programs for low-income or otherwise disadvantaged prekindergarten-age children.

(ee) "Support services" means those services which, when combined with child care and development services, help promote the healthy physical, mental, social, and emotional growth of children. Support services include, but are not limited to: protective services, parent training, provider and staff training, transportation, parent and child counseling, child development resource and referral services, and child placement counseling.

(ff) "Teacher" means a person with the appropriate certificate who provides program supervision and instruction which includes supervision of a number of aides, volunteers, and groups of children.

(gg) "Workday" means the time that the parent requires

temporary care for a child for any of the following reasons:

(1) To undertake training in preparation for a job.

(2) To undertake or retain a job.

(3) To undertake other activities which are essential to maintaining or improving the social and economic function of the family, are beneficial to the community, or are required because of health problems in the family.

SEC. 3. Section 8250 of the Education Code is amended to read:

8250. (a) To the greatest extent possible, the Superintendent of Public Instruction shall ensure that children with exceptional needs are appropriately served in child care and development programs and are given equal access to those programs. Available federal and state funds for children with exceptional needs above the standard reimbursement amount shall be used to assist agencies in developing and supporting appropriate programs for these children.

(b) In order to ensure that children with exceptional needs have equal access to child care and development programs, the Superintendent of Public Instruction shall establish alternate appropriate placements, such as self-contained programs and innovative programs using the least restrictive environment. These programs shall be started as expansion funds become available and shall be expanded throughout the implementation of the plan. The Superintendent of Public Instruction shall utilize existing program models and input from program specialists to develop new program criteria and guidelines for programs serving children with exceptional needs.

Notwithstanding any other provision of this chapter, child care and development programs established pursuant to this section may have reimbursement rates above the standard reimbursement rate, and may serve children with exceptional needs from birth to 21 years of age. The Superintendent of Public Instruction may develop regulations establishing separate eligibility criteria and fee schedules for programs established pursuant to this section.

(c) Any child with exceptional needs served in child care and development programs shall be afforded all rights and protections guaranteed in state and federal laws and regulations for individuals with exceptional needs.

(d) Notwithstanding any other provision of this chapter, the Superintendent of Public Instruction may develop unique reimbursement rates for, and make reimbursements to, child care and development programs which received state funding for the 1980–81 fiscal year and serve severely handicapped children, as defined in subdivision (s) of Section 8208, when all of the following conditions exist:

(1) Eligibility for enrollment of a severely handicapped child in the program is the sole basis of the child's need for service.

(2) Services are provided to severely handicapped children from birth to 21 years.

(3) No fees are charged to the parents of the severely

handicapped children receiving the services.

(e) The Superintendent of Public Instruction shall include child care and development providers in all statewide planning for personnel development for persons providing services for children with special needs.

SEC. 4. Section 8262.5 is added to the Education Code, to read:

8262.5. (a) In contract transfer situations in programs funded pursuant to this chapter, the Superintendent of Public Instruction may grant a certificate of operation to child care and development facilities pursuant to this section.

(b) For purposes of maintaining continuity of services to children and receipt of state and federal child nutrition and child development funding, the superintendent may grant a certificate of operation to any child care and development facility which meets all of the following conditions:

(1) The superintendent, or his or her designee, has visited the facility and verified, in writing, to the State Department of Social Services licensing agency that the facility has no deficiencies at the time of granting the certificate of operation which would endanger the physical health, mental health, safety, or welfare of the children.

(2) Without a certificate of operation in lieu of a license from the State Department of Social Services, the facility would be ineligible to receive state and federal child nutrition or child development funds.

(c) For purposes of Section 8266, a facility issued a certificate of operation pursuant to this section shall be deemed to be operating under licensing standards for child care and development facilities specified by Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code and by Title 22 of the California Administrative Code.

(d) A facility granted a certificate of operation shall submit a completed license application to the State Department of Social Services within 60 days of the issuance of the certificate of operation. Failure to meet this requirement will result in the cancellation of the certificate of operation.

SEC. 5. Section 8265 of the Education Code is amended to read:

8265. (a) The Superintendent of Public Instruction shall implement a plan which establishes reasonable standards and assigned reimbursement rates, which vary with the length of the program year and the hours of service.

Actual reimbursement shall not, in any case, exceed actual program costs, and parent fees shall be deducted from the assigned reimbursement rate or actual costs, whichever is less.

When establishing standards and assigned reimbursement rates, the Superintendent of Public Instruction shall confer with applicant agencies.

The reimbursement system, including standards and rates, shall be submitted to the Joint Legislative Budget Committee.

The Superintendent of Public Instruction may establish any

regulations he or she deems advisable concerning conditions of service and hours of enrollment for children in the programs.

(b) The standard reimbursement rate shall be three thousand five hundred twenty-three dollars ($3,523) per unit of average daily enrollment for a 250-day year, increased by the cost-of-living adjustment granted by the Legislature beginning July 1, 1980.

(c) The plan shall require agencies having an assigned reimbursement rate above the current year standard reimbursement rate to reduce costs on an incremental basis to achieve the standard reimbursement rate.

(d) The plan shall provide for adjusting reimbursement on a case-by-case basis, in order to maintain service levels for agencies currently reimbursed at a rate less than the standard reimbursement rate. Assigned reimbursement rates shall be increased only on the basis of one or more of the following:

(1) Loss of program resources from other sources.

(2) Need of an agency to pay the same child care rates as those prevailing in the local community.

(3) Increased costs directly attributable to new or different regulations.

(4) Documented increased costs necessary to maintain the prior year's level of service and ensure the continuation of threatened programs.

Child care agencies funded at the lowest rates shall be given first priority for increases.

(e) The plan shall provide for expansion of child development programs at no more than the standard reimbursement rate for that fiscal year.

(f) The Superintendent of Public Instruction may reduce the percentage of reduction for any public agency:

(1) Which is currently serving more than 400 children; or

(2) Which has in effect a collective bargaining agreement; or

(3) For which other extenuating circumstances apply as determined by the Superintendent of Public Instruction.

SEC. 6. Section 8265.5 of the Education Code is amended to read:

8265.5. In order to reflect the additional expense of serving children with special needs, the provider agency's reported child days of enrollment for these children shall be multiplied by the adjustment factors listed below.

These adjustment factors shall apply only to those programs whose assigned reimbursement rates are at or below the standard reimbursement rate.

(a) For infants 0 to 2 years, 9 months, the adjustment factor shall be 1.4.

(b) For children with exceptional needs age 0 to 21, the adjustment factor shall be 1.2.

(c) For severely handicapped children age 0 to 21, the adjustment factor shall be 1.5.

(d) For a child at risk of neglect, abuse, or exploitation age 0 to 14,

the adjustment factor shall be 1.1.

(e) For limited-English speaking and non-English-speaking children age 2 through kindergarten, the adjustment factor shall be 1.1.

Use of these adjustment factors shall not increase the provider agency's total annual allocation.

Days of enrollment for children having more than one special need shall not be reported under more than one of the above categories.

Reimbursement resulting from the use of the above adjustment factors shall be used for special and appropriate services for each child.

SEC. 7. (a) The sum of twenty-three million nine hundred thousand dollars ($23,900,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for allocation in accordance with the following schedule:

(1) For the purpose of increasing the reimbursement levels of underfunded child care and development services	$ 5,000,000
(2) For the purpose of expanding child care and development services, with priority for existing programs capable of expanding services, and for unserved and underserved geographic areas and target populations, such as those served by campus child care and development programs, school-age infant care and development programs, migrant child care and development programs, and programs serving children with exceptional needs	$15,000,000
(3) For the purpose of increasing reimbursement levels of state preschool programs in order to reduce the difference between funding levels in those programs and funding levels in comparable federal programs	$ 1,500,000
(4) For the purpose of expanding services to children with exceptional needs pursuant to subdivision (b) of Section 8250 of the Education Code	$ 400,000
(5) For allocation to the Office of Child Development for the administration of existing child care and development services	$ 2,000,000

(b) Three percent of the amounts appropriated in paragraphs (1), (2), (3), and (4) of subdivision (a) shall be allocated to the Office of Child Development for the administration of the expanded services.

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

effect. The facts constituting the necessity are:

In order to permit this act to become operative as early as possible in the 1984–85 fiscal year, and so facilitate the orderly administration of child development programs, it is necessary that this act take effect immediately.

CHAPTER 1605

An act to amend Sections 242 and 4600.2 of, and to add a heading to Chapter 1 (commencing with Section 4700) of, and to add Chapter 2 (commencing with Section 4720) to, Title 5 of Part 5 of Division 4 of, the Civil Code, and to add Section 11488 to the Welfare and Institutions Code, relating to child support.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 242 of the Civil Code is amended to read:

242. Every individual shall support his or her spouse and child, and shall support his or her parent when in need. The duty imposed by this section shall be subject to the provisions of Chapter 2 (commencing with Section 4720) of Title 5 of Part 5 of Division 4 and Sections 196, 206, 246, 4700, 4700.1, 4700.5, 4700.7, 4700.9, 4801, 5131, and 5132.

SEC. 2. Section 4600.2 of the Civil Code is amended to read:

4600.2. Any order awarding custody to a parent who is receiving, or in the opinion of the court is likely to receive, assistance pursuant to the Burton-Miller Act (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code) for the maintenance of the child shall include an order pursuant to Section 4700 or 4702, and Chapter 2 (commencing with Section 4720) of Title 5 of Part 5 of Division 4, directing the noncustodial parent to pay any amount necessary for the support of the child, to the extent of the noncustodial parent's ability to pay.

SEC. 3. A chapter heading is added immediately preceding Section 4700 of the Civil Code, to read:

CHAPTER 1. GENERAL

SEC. 4. Chapter 2 (commencing with Section 4720) is added to Title 5 of Part 5 of Division 4 of the Civil Code, to read:

CHAPTER 2. THE AGNOS CHILD SUPPORT STANDARDS ACT OF 1984

4720. The Legislature hereby finds and declares that:

(a) The State of California has no single standard to promote equitable, adequate child support awards.

(b) The current method of setting child support awards has led to substantial variation in these awards among families with similiar circumstances and resources.

(c) In situations where a parent fails to meet his or her child support obligations, or where the award levels are inadequate, the state may ultimately be required to bear the financial responsibility for the child.

(d) The Aid to Families with Dependent Children program (hereinafter referred to as AFDC) established by the Burton-Miller Act (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code) is the state program most likely to be affected by the failures and inadequacies of child support awards, and is the program by which the cost of maintaining those children adversely affected by these failures and inadequacies would otherwise be provided. Furthermore, the minimum amounts necessary for the support, maintenance, and care of children have been established by the Legislature in the monthly needs standards set forth in the AFDC program. Therefore, it is the intent of the Legislature that a system of standards and procedures shall be established which provide for a uniform determination of child support awards throughout the state, and which assures that, dependent upon the financial ability of each parent to do so, no child receives a support award less than would otherwise be established as the need for that child under the AFDC program.

The level of child support resulting from the application of the formula established by this chapter shall be treated as the minimum award for support. It is the intention of the Legislature that the court shall use the guidelines in use in its county to establish the child support award. However, in no event shall the court award less than the mandatory minimum child support allowable pursuant to this chapter. In setting an award higher than the mandatory minimum, the court shall be guided by the criteria set forth in applicable statutes, relevant case law, and state and local guidelines, so long as they are not in conflict with the provisions of this chapter.

(e) It is the intention of the Legislature that the courts shall adhere to the principles set forth in this chapter and shall depart from them only in exceptional circumstances. A parent's first and principal obligation is to support his or her minor children according to the parent's circumstances and station in life. In this regard, the Legislature recognizes that a parent's circumstances and station in life are dependent upon a variety of factors, including his or her earned and unearned income; earning capacity; assets; and the income of his or her subsequent spouse or nonmarital partner, to the extent that the obligated parent's basic living expenses are met by the spouse or other person, thus increasing the parent's disposable income and therefore his or her ability to pay more than the mandatory minimum child support award established by this

chapter. The court shall take into consideration the needs of the supported child or children in determining whether circumstances give rise to an increase or decrease in a child support award.

4721. In determining the ability of parents to pay the mandatory minimum child support award and to calculate the actual monthly payments to be made by each parent, all of the following provisions apply:

(a) The annual gross income of each parent shall be determined and then adjusted to obtain the annual net disposable income. To determine and apportion the mandatory minimum child support award, as defined in Section 4722, the court shall also consider, to the extent consistent with the best interests of the child or children, the earning capacity of either or both parents. The annual gross income means income from whatever source derived, except as specified in subdivision (b), and includes, but is not limited to, all of the following:

(1) Income such as commissions, salaries, royalties, wages, bonuses, rents, dividends, pensions, interest, trust income, annuities, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, and spousal support actually received from a person not a party to the order.

(2) Income from the proprietorship of a business, such as gross receipts from the business reduced by expenditures required for the operation of the business.

(3) To the extent that income derived from paragraphs (1) and (2) is insufficient to produce a mandatory minimum child support award at the AFDC standard for the same number of children, upon the request of either party, the court may consider investment assets of either or both parties which could be liquidated. To determine and apportion the mandatory minimum child support award at the AFDC level, the court shall also consider, to the extent consistent with the best interests of all of the children, the earning capacity of either or both parents.

(b) Annual gross income shall not include any income derived from child support payments actually received and income derived from any public assistance program, eligibility for which is based on a determination of need.

(c) The annual net disposable income of each parent shall be computed by deducting from his or her annual gross income the actual amounts attributable only to the following items, after which the remainder shall be adjusted to reflect the monthly net disposable income of each parent:

(1) The state and federal income taxes attributed to the parent. Federal and state income tax deductions shall bear an accurate relationship to the tax status of the parties (that is, single, married, married filing separately, or head of household) and number of dependents.

(2) Deductions attributed to the employee's contribution or the self-employed worker's contribution pursuant to the Federal

Insurance Contributions Act (FICA), or an amount not to exceed that allowed under FICA for persons not subject to FICA, provided that the deducted amount is used to secure retirement or disability benefits for the parent.

(3) Deductions for mandatory union dues and retirement benefits, provided that they are required as a condition of employment.

(4) Deductions for health insurance premiums.

(5) Any child or spousal support actually being paid by the parent pursuant to a court order, to or for the benefit of any person who is not a subject of the award to be established by the court.

(d) For the purposes of verifying total gross income and amounts allowed for deductions, copies of the parents' state income tax returns for the previous two years, copies of present wage stubs, and any other relevant documents shall be subject to discovery by the parties. Further, the court may require copies of the parents' tax returns for the previous two years, copies of present wage stubs, and such other documentation as it may deem necessary, including a current income and expense declaration in the form prescribed by the Judicial Council for family law matters.

(e) For the purpose of determining the parent's annual gross income, in calculating the mandatory minimum child support award, the court shall not include any portion of the earned income and income derived from the separate property of the current spouse or the nonmarital partner of either parent. This requirement does not apply to a child support obligation arising from the marriage between the obligated parents.

(f) The court shall inquire of each party as to the total number of minor children he or she is legally obligated to support.

4722. (a) The standard established pursuant to Section 11452 of the Welfare and Institutions Code, as adjusted by Section 11453 of the Welfare and Institutions Code, establishes a minimum family support level based on the number of eligible needy persons in the family.

(b) Each parent's ability to pay a minimum mandatory amount of child support shall be determined in accord with the standards established by Section 11452 of the Welfare and Institutions Code, as follows:

(1) The combined monthly net disposable income of both parents shall be multiplied by the following percentage factors: 18 percent for one child; 27 percent for two children; 36 percent for three children; 40 percent for four children; and an additional four percent for each child thereafter, up to a total of 10 children.

(2) If the resulting amount is less than the AFDC standard for the number of children involved, the court shall find that the parents are unable to pay at the level of the children's portion of the AFDC standard and shall set a minimum award according to the actual combined net income and the percentages set forth above.

(3) If the resulting amount is at, or greater than, the AFDC standard for the same number of children, the court shall order a

minimum award that equals the AFDC standard.

(c) The AFDC standard for the number of children to be supported shall be the minimum basic standard of adequate care specified in Section 11452 of the Welfare and Institutions Code, as in effect July 21, 1983, annually adjusted pursuant to Section 11453 of the Welfare and Institutions Code, for the number of children to be supported.

(d) The amount each parent shall contribute to the mandatory minimum award shall be determined by multiplying the minimum award by the proportionate share of each parent's contribution to their combined net disposable income.

(e) If more than 10 minor children are to be supported, the minimum award shall be the same as for 10 children.

(f) The award set pursuant to this chapter is the mandatory minimum child support award.

(g) The formula established by this section is represented algebraically as follows:

WHERE:

MB = Minimum base

$$P = \text{percent} = \frac{NCN}{NCN+CN}$$

NCN = noncustodial spouse net income

CN = custodial spouse net income

F = factor (.18 for one child, .27 for two, .36 for three, and .04 for each additional child over three children)

S = the AFDC needs standard for the appropriate number of children to be supported by this order

Y = yield

Then calculation of the minimum support is as follows:

Step 1: $F \times (CN+NCN) = Y$

Step 2: If $Y \geq S$, $MB = S$

If $Y < S$, $MB = Y$

Step 3: $MB \times P$ = portion of award to be paid by noncustodial spouse.

(h) The formula delineated in this section shall be used only for calculations made under this section for the establishment of a minimum level of child support. Nothing in this section shall be construed to affect the duty or ability of any public agency pursuant to any other provision of law to secure or bring suit for reimbursement of AFDC public assistance paid to a family unit, eligible therefor under the applicable provisions of law, in an amount not to exceed the total amount of aid actually paid.

4723. The mandatory minimum child support award established pursuant to this chapter is intended to assure adequate basic living expenses, including food, shelter, and clothing, for the supported children. The court shall not assume that any other costs related to the rearing of children are provided within the mandatory minimum

award. Child care expenses, special educational expenses, expenses for special medical, dental, or mental health needs, and expenses related to any other special needs of the children are not provided for in the mandatory minimum child support award. These expenses shall be considered by the court in making a supplemental award.

4724. Upon the request of either party, the court may award and, when appropriate, is hereby urged to award a higher amount of child support than the mandatory minimum child support award.

(a) In setting a higher level of child support, the court shall be guided by the criteria set forth in applicable statutes, relevant case law, state and local child support guidelines not in conflict with the mandatory minimum award established by this chapter, and the legislative intent that children share in their parents' standard of living as set forth in this chapter.

(b) The Judicial Council shall, in accord with the legislative intent set forth in subdivision (e) of Section 4720, develop schedules for discretionary child support awards above the mandatory minimum child support awards as determined pursuant to this chapter for use by those counties without child support schedules. The Judicial Council shall provide these schedules to the counties by July 1, 1986.

(c) The courts shall review the guidelines in use in their counties prior to the implementation of this chapter to assure they do not authorize awards less than the mandatory minimum award.

(d) In setting a level of child support below the applicable level in the discretionary guideline in use in a county the court shall state its reasons on the record, citing the documentation of any underlying facts and circumstances for the award.

4725. In the event that a parent is experiencing extreme financial hardship due to justifiable expenses resulting from the circumstances enumerated in this section, upon the request of a party, the court may allow such income deductions as may be necessary to accommodate those circumstances, in addition to the deductions specified in subdivision (c) of Section 4721.

(a) Circumstances evidencing hardship include the extraordinary health expenses for which the parent is financially responsible, and uninsured catastrophic losses.

(b) Circumstances evidencing hardship also include the minimum basic living expenses of either parent's dependent minor children from other marriages or relationships. The court, upon its own motion or upon the request of a party, may allow such income deductions as are necessary to accommodate these expenses.

(c) If deductions for hardship expenses are allowed, the court shall state on the record the reasons supporting the deductions, cite the documentation of the underlying facts and circumstances, and specify the amount of deductions allowed. Whenever possible, the court shall specify the duration that any deduction shall be in effect.

(d) Upon considering whether to allow a deduction under this section, and in determining the amount of any such deduction, the court shall be guided by the goals set forth in the expression of

legislative intent set forth in this chapter.

(e) The court shall not order a child support award that would reduce a parent's net income to an amount less than that established for the needs of one person by Section 11452 of the Welfare and Institutions Code, as annually adjusted by Section 11453 of that code.

4726. Notwithstanding Section 11491 of the Welfare and Institutions Code, health insurance coverage for the supported children shall be maintained by either or both parents if that insurance is available at no cost or at nominal cost to the parent or parents. This provision shall apply in all cases, irrespective of whether the award made is based on the mandatory minimum schedule or a higher amount based on a state or county schedule. Any parent so responsible shall complete a form specifying his or her insurance coverage, which shall be forwarded to the State Department of Health Services in accord with Section 11490 to 11492.1, inclusive, of the Welfare and Institutions Code.

4727. Except when a child or children are receiving an AFDC grant, upon request, the court may take into consideration expenses incurred and savings resulting from shared physical custody arrangements in determining the pro rata share of the mandatory minimum child support award to be allocated to each parent. For the purpose of this chapter, "shared physical custody" means an arrangement in which the parents share physical custody so that both have custody of the child or children more than 30 percent of a 365-day period.

4728. (a) The provisions of this act shall not be construed to impair the right of parties to enter stipulated agreements, except that the court shall not approve a stipulated agreement for a child support award unless all of the following conditions are met:

(1) The parties acknowledge that they are fully informed of their rights pursuant this chapter and that the award is being agreed to without coercion or duress.

(2) The parties declare that their children's needs will be adequately met.

(3) The right to support has not been assigned to the county pursuant to Section 11477 of the Welfare and Institutions Code, and no public assistance application is pending.

(b) If the parties to a stipulated agreement stipulate to a child support award below the mandatory minimum level, no change of circumstance need be demonstrated to obtain a modification of the child support award to the applicable mandatory minimum level or above.

4729. This chapter applies to all applications for modification of existing child support orders, and shall be operative on July 1, 1985. The Judicial Council shall publish informational material describing this chapter and its implementation and shall revise the appropriate forms prescribed for family law matters. The Judicial Council shall make such procedural changes as necessary to ensure all parties to an action for child support, whether a petition or a modification,

stipulated or otherwise, have notice and understanding of the provisions of this chapter. The informational materials shall be prepared and published by the Judicial Council by July 1, 1985. In the event it is necessary for the court to establish priorities among applicants seeking to modify existing orders because of the unduly heavy workload imposed by these applications, the court shall assign the highest priority to the orders entered longest ago.

4730. This chapter constitutes a change in circumstances for the purpose of allowing the modification of child support orders entered prior to July 1, 1985.

4731. This chapter applies to any award for the support of children, including those awards designated as "family support" which contain provisions for the support of children as well as for the support of the spouse.

4732. This chapter shall not be construed so as to affect the treatment of spousal support and separate maintenance payments pursuant to Section 71 of the Internal Revenue Code of 1954 (26 U.S.C.A. Sec. 71).

SEC. 5. Section 11488 is added to the Welfare and Institutions Code, to read:

11488. In enforcing the provisions of this chapter, the district attorney shall inquire of both the custodial and noncustodial parent as to the number of minor children each is legally obligated to support. The district attorney shall consider the needs of all of these children in computing the level of support requested to be ordered by the court.

SEC. 6. The Judicial Council shall develop and promulgate forms and tables necessary to implement the provisions of this act, together with instructions for their usage, for the use of the courts, by July 1, 1985. The instructions for use shall include directions for the completion of the form required by Section 4726 of the Civil Code. The informational materials required by Section 4729 of the Civil Code shall be prepared and published by July 1, 1985.

SEC. 7. Sections 1, 2, 3, and 4 of this act shall be operative July 1, 1985.

SEC. 8. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 9. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 10. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not

result in additional net costs.

CHAPTER 1606

An act to add Section 273 the Health and Safety Code, and to add Section 14133.8 to the Welfare and Institutions Code, relating to health.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. The Legislature finds and declares that bone marrow transplant procedures are efficacious treatment regimens for some forms of cancer. It is the intent of the Legislature to ensure that bone marrow transplants are available to recipients of the California Children's Services program and the Medi-Cal program.

SEC. 2. Section 273 is added to the Health and Safety Code, to read:

273. (a) A bone marrow transplant for the treatment of cancer shall be reimbursable under this article, when all of the following conditions are met:

(1) The bone marrow transplant is recommended by the recipient's attending physician.

(2) The bone marrow transplant is performed in a hospital that is approved for participation in the California Children's Services program.

(3) The bone marrow transplant is a reasonable course of treatment and is approved by the appropriate hospital medical policy committee.

(4) The bone marrow transplant has been deemed appropriate for the recipient by the program's medical consultant. The medical consultant shall not disapprove the bone marrow transplant solely on the basis that it is classified as experimental or investigational.

(b) The program shall provide reimbursement for both donor and recipient surgery.

(c) Any county which has a population of not more than 600,000, as determined by the most recent decennial census conducted by the United States Bureau of the Census, shall be exempt from complying with the 25-percent matching requirement provided for under this article, for any bone marrow transplant reimbursable under this section.

SEC. 3. Section 14133.8 is added to the Welfare and Institutions Code, to read:

14133.8. (a) A bone marrow transplant for the treatment of cancer for beneficiaries under the age of 21, shall be reimbursable under this chapter, when all of the following conditions are met:

(1) The bone marrow transplant is recommended by the recipient's attending physician.

(2) The bone marrow transplant is performed in a hospital that is approved for participation in the Medi-Cal program.

(3) The bone marrow transplant is a reasonable course of treatment and is approved by the appropriate hospital medical policy committee.

(4) The bone marrow transplant has been deemed appropriate for the recipient by the program's medical consultant. The medical consultant shall not disapprove the bone marrow transplant solely on the basis that it is classified as experimental or investigational.

(5) Full federal financial participation is available for reimbursement for the performance of the bone marrow transplant.

(b) The program shall provide reimbursement for both donor and recipient surgery.

(c) The department may establish inpatient rates of reimbursement not in accordance with the state plan for those hospitals not under contract with the state pursuant to Article 2.6 (commencing with Section 14081), provided that the state plan is subsequently amended to reflect the method of reimbursement.

(d) This section shall not be construed as prohibiting reimbursement for any bone marrow transplants provided under this chapter.

CHAPTER 1607

An act to add Chapter 1.2 (commencing with Section 628) to Title 15 of Part 1 of the Penal Code, relating to school crimes, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Chapter 1.2 (commencing with Section 628) is added to Title 15 of Part 1 of the Penal Code, to read:

CHAPTER 1.2. REPORTING OF SCHOOL CRIME

628. It is the intent of the Legislature in enacting this section to ensure that schools, school districts, local government, and the Legislature have sufficient data and information about the type and frequency of crime occurring on school campuses to permit development of effective programs and techniques to combat crime on school campuses.

628.1. By June 30, 1985, the State Department of Education, in consultation with the Department of Justice and a representative

selection of school districts which currently compile school crime statistics, shall develop a standard school crime reporting form for use by all school districts throughout the state. No individual shall be identified by name or in any other manner on this reporting form. The form shall define what constitutes the criminal activity required to be reported and shall include, but not be limited to, all of the following:

(a) Description of the crime.

(b) Victim characteristics.

(c) Offender characteristics, if known .

(d) Total students enrolled at the school reporting the crime on November 15 for the first reporting period and April 15 for the second reporting period.

628.2. On forms prepared and supplied by the State Department of Education, each school in a school district shall forward a completed report of crimes committed on school grounds at the end of each reporting period to the district superintendent.

The district superintendent shall compile the school data and submit the aggregated data to the State Department of Education not later than February 1 for the reporting period of July 1 through December 31, and not later than August 1 for the reporting period January 1 through June 30.

The State Department of Education shall distribute, upon request, to each office of the county superintendent of schools and each county probation department, a summary of that county's district reports and the summary of statewide aggregated data. This information shall be supplied not later than January 1 of each year for the previous school year. The department shall also submit to the Legislature a summary of the statewide aggregated data not later than January 1 of each year for the previous school year. In addition, commencing with the second annual report, the department shall also evaluate school district crime prevention programs by comparing the numbers and rates of crimes and the resulting economic losses for each year against those of previous years.

All school district, county, and statewide reports prepared under this chapter shall be deemed public documents and shall be made available to the public at a price not to exceed the actual cost of duplication.

SEC. 2. The sum of forty thousand dollars ($40,000) is hereby appropriated from the General Fund to the State Department of Education for the cost of developing the standard form pursuant to Section 628.1 of the Penal Code, and for carrying out the necessary consultation and training of local school district staff to ensure the accurate and timely gathering of school crime statistics.

SEC. 3. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may

pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1608

An act to amend Section 232 of the Civil Code, to amend Sections 319, 360, 361, 366, 366.25, 11400, 11401, and 11404.1 of, and to add Section 319.1 to, the Welfare and Institutions Code, relating to children, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 232 of the Civil Code is amended to read:

232. (a) An action may be brought for the purpose of having any child under the age of 18 years declared free from the custody and control of either or both of his or her parents when the child comes within any of the following descriptions:

(1) The child has been left without provision for the child's identification by his or her parent or parents or by others or has been left by both of his or her parents or his or her sole parent in the care and custody of another for a period of six months or by one parent in the care and custody of the other parent for a period of one year without any provision for the child's support, or without communication from the parent or parents, with the intent on the part of the parent or parents to abandon the child. The failure to provide identification, failure to provide support, or failure to communicate shall be presumptive evidence of the intent to abandon. If the parent or parents have made only token efforts to support or communicate with the child, the court may declare the child abandoned by the parent or parents. In those cases in which the child has been left without provision for the child's identification and the whereabouts of the parents are unknown, a petition may be filed after the 120th day following the discovery of the child and citation by publication may be commenced. The petition may not be heard until after the 180th day following the discovery of the child.

(2) Who has been neglected or cruelly treated by either or both parents, if the child has been a dependent child of the juvenile court under any subdivision of Section 300 of the Welfare and Institutions Code and the parent or parents have been deprived of the child's

custody for one year prior to the filing of a petition pursuant to this section. Physical custody by the parent or parents for insubstantial periods of time shall not serve to interrupt the running of the one year period.

(3) Whose parent or parents suffer a disability because of the habitual use of alcohol, or any of the controlled substances specified in Schedules I to V, inclusive, of Division 10 (commencing with Section 11000) of the Health and Safety Code, except when these controlled substances are used as part of a medically prescribed plan, or are morally depraved, if the child has been a dependent child of the juvenile court, and the parent or parents have been deprived of the child's custody continuously for one year immediately prior to the filing of a petition pursuant to this section. As used in this subdivision, "disability" means any physical or mental incapacity which renders the parent or parents unable to adequately care for and control the child. Physical custody by the parent or parents for insubstantial periods of time shall not interrupt the running of the one year period.

(4) Whose parent or parents are convicted of a felony, if the facts of the crime of which the parent or parents were convicted are of a nature so as to prove the unfitness of the parent or parents to have the future custody and control of the child.

(5) Whose parent or parents have been declared by a court of competent jurisdiction wherever situated to be developmentally disabled or mentally ill, if, in the state or country in which the parent or parents reside or are hospitalized, the Director of Mental Health or the Director of Developmental Services, or their equivalent, if any, and the superintendent of the hospital of which, if any, the parent or parents are inmates or patients certify that the parent or parents so declared to be developmentally disabled or mentally ill will not be capable of supporting or controlling the child in a proper manner.

(6) Whose parent or parents are mentally disabled and are likely to remain so in the foreseeable future. As used in this subdivision "mentally disabled" means that a parent or parents suffer any mental incapacity or disorder which renders the parent or parents unable to adequately care for and control the child. The evidence of any two experts, each of whom shall be either a physician and surgeon, certified either by the American Board of Psychiatry and Neurology or under Section 6750 of the Welfare and Institutions Code, or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders, shall be required to support a finding under this subdivision. If, however, the parent or parents reside in another state or in a foreign country, the evidence required by this subdivision may be supplied by the affidavits of two experts each of whom shall be either a physician and surgeon who is a resident of that state or foreign country, and who has been certified by a medical organization or society of that state or foreign

country to practice psychiatric or neurological medicine, or by a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders and who is licensed in that state or authorized to practice in that country. If the rights of any parent are sought to be terminated pursuant to this subdivision, and the parent has no attorney, the court shall appoint an attorney for the parent pursuant to Section 237.5 whether or not a request for the appointment is made by the parent.

(7) Who has been in out-of-home placement under the supervision of the juvenile court, the county welfare department, or other public or private licensed child-placing agency for a one-year period, if the court finds that return of the child to the child's parent or parents would be detrimental to the child and that the parent or parents have failed during that period, and are likely to fail in the future, to maintain an adequate parental relationship with the child, which includes providing both a home and care and control for the child.

If the minor has been adjudged a dependent child of the juvenile court and placed in out-of-home placement pursuant to Section 361 of the Welfare and Institutions Code, the one-year period shall be calculated from the date of the dispositional hearing at which the child was placed in out-of-home placement pursuant to that section. If the minor is in placement under the supervision of a county welfare department or other public or private licensed child-placing agency, pursuant to a voluntary placement, as described in Section 16507.4 of the Welfare and Institutions Code, the one-year period shall be calculated from the date the minor entered out-of-home placement.

The court shall make a determination that reasonable services have been provided or offered to the parents which were designed to aid the parents to overcome the problems which led to the deprivation or continued loss of custody and that despite the availability of these services, return of the child to the parents would be detrimental to the child. The probation officer or social worker currently assigned to the case of the child shall appear at the termination proceedings.

If the minor has been adjudged to be a dependent child of the court pursuant to Section 300 of the Welfare and Institutions Code, the court shall review and consider the contents of the juvenile court file in determining if the services offered were reasonable under the circumstances.

Trial placement of the child in the physical custody of the parent or visitation of the child with the parent during the one-year period, when the trial placement or visitation does not result in permanent placement of the child with the parent, shall not serve to interrupt the running of the one-year period.

(b) At all termination proceedings, the court shall consider the wishes of the child and shall act in the best interests of the child.

(c) A finding pursuant to this section shall be supported by clear and convincing evidence.

(d) Section 5158 shall not apply to proceedings pursuant to this section.

SEC. 2. Section 319 of the Welfare and Institutions Code is amended to read:

319. At the initial petition hearing the court shall examine the minor, the minor's parents, guardians, or other persons having relevant knowledge and hear the relevant evidence as the minor, the minor's parents or guardians or their counsel desires to present.

The probation officer shall report to the court on the reasons why the minor has been removed from the parent's custody, the need, if any, for continued detention, and on the available services and the referral methods to be used which would facilitate the return of the minor to the custody of the minor's parents or guardians. The court shall order the release of the minor from custody unless it finds any of the following:

(a) There is a substantial danger to the physical health of the minor or the minor is suffering severe emotional damage, and there are no reasonable means by which the minor's physical or emotional health may be protected without removing the minor from the parents' or guardians' physical custody.

(b) The minor has violated an order of the juvenile court or has escaped from the commitment of the juvenile court.

(c) The minor is a threat to the person or property of another or his or her parent or guardian or responsible relative is likely to flee the jurisdiction of the court.

(d) The minor indicates an unwillingness to return home, if the minor has been sexually molested by a person residing in the home.

Whenever a court orders a minor detained, the court shall state the facts on which the decision is based. The court shall also make a determination in the order as to whether reasonable services have been provided to aid the parents or guardians in order to prevent the need for removal of the child. Where first contact with the family has occurred during an emergency situation in which the child could not safely remain at home, even with reasonable services being provided, the court shall make a finding that the lack of preplacement preventive efforts were reasonable.

When the minor is not released from custody the court may order that the minor shall be placed in an emergency shelter or other suitable licensed place or a place exempt from licensure designated by the juvenile court for a period not to exceed 15 judicial days.

SEC. 2.5. Section 319.1 is added to the Welfare and Institutions Code, to read:

319.1. In no event shall the court grant continuances that would cause the hearing in Section 361 to be completed more than six months after the Section 319 hearing. No continuance shall be granted after the detention hearing required by Section 319 if contrary to the best interests of the minor. In considering the best

interests of the minor, the court shall give substantial weight to a minor's need for prompt resolution of his or her custody status, the need to provide children with stable environments, and the damage to a minor of prolonged temporary placements.

SEC. 3. Section 360 of the Welfare and Institutions Code is amended to read:

360. After receiving and considering the evidence on the proper disposition of the case, the juvenile court may enter judgment as follows:

(a) If the court finds that the minor is a person described by Section 300, it may, without adjudicating the minor a dependent child of the court, order that services be provided to keep the family together and place the minor and the minor's parent or guardian under the supervision of the probation officer for a time period consistent with Section 330.

(b) If the family subsequently is unable or unwilling to cooperate with the services being provided, the probation officer may file a petition with the juvenile court pursuant to Section 332 alleging that a previous petition has been sustained and that disposition pursuant to subdivision (a) has been ineffective in ameliorating the situation requiring the child welfare services. Upon hearing the petition, the court shall order either that the petition shall be dismissed or that a new disposition hearing shall be held pursuant to subdivision (c).

(c) If the court finds that the minor is a person described by Section 300, it may order and adjudge the minor to be a dependent child of the court.

SEC. 4. Section 361 of the Welfare and Institutions Code is amended to read:

361. (a) In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all such limitations. The limitations shall not exceed those necessary to protect the child.

(b) No dependent child shall be taken from the physical custody of his or her parents or guardians unless, upon the hearing, the juvenile court finds clear and convincing evidence of any of the following:

(1) There is a substantial danger to the physical health of the minor or would be if the minor was returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parents' or guardians' physical custody.

(2) The parent or guardian of the minor is unwilling to have physical custody of the minor, and the parent or guardian has been notified that if the minor remains out of their physical custody for the period specified in Section 366.25, the minor may be declared permanently free from their custody and control under Section 232 of the Civil Code.

(3) The minor is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, and there are no reasonable means by which the minor's emotional health may be protected without removing the minor from the minor's parents' or guardians' physical custody.

(4) The minor has been sexually abused and there are no reasonable means by which the minor can be protected from further sexual abuse without removing the minor from his or her parent or guardian or the minor does not wish to return to his or her parent or guardian.

The court shall state the facts on which the decision to remove the child is based. The court shall make a determination as to whether reasonable efforts were made to prevent or to eliminate the need for removal of the child from his or her home. The court also shall inform the parent or parents of the provisions of Section 366.25 and Section 232 of the Civil Code and shall specify that their parental rights may be terminated permanently under these sections if they are not able to resume custody within 12 months.

(c) If the minor is taken from the physical custody of the minor's parents or guardians and unless the minor is placed with relatives, the minor shall be placed in foster care in the county of residence of the minor's parents or guardians in order to facilitate reunification of the family.

In the event that there are no appropriate placements available in the parents' or guardians' county, a placement may be made in an appropriate place in another county, preferably a county located adjacent to the parents' or guardians' community of residence.

Nothing in this section shall be interpreted as requiring multiple disruptions of the minor's placement corresponding to frequent changes of residence by the parents or guardians. In determining whether the minor should be moved, the probation officer will take into consideration the potential harmful effects of disrupting the placement on the minor and the parents' or guardians' reason for the move.

(d) Whenever the probation officer must change the placement of the minor and is unable to find a suitable placement within the county and must place the minor outside the county, no such placement shall be made until he or she has served written notice on the parents or guardians in the same manner as provided in Section 366 at least 14 days prior to the placement unless the child's health or well-being is endangered by delaying the action or would be endangered if prior notice were given. The notice shall state the reasons which require placement outside the county. The parents or guardians may object to the placement not later than seven days after receipt of the notice and, upon objection the court shall hold a hearing not later than five days after the objection and prior to the placement. The court shall order out-of-county placement if it finds that the minor's particular needs require placement outside the

county.

(e) The court shall make all the findings required by subdivision (a) of Section 366 in either of the following circumstances:

(1) The minor has been taken from the custody of his or her parents or guardians and has been living in an out-of-home placement pursuant to Section 319.

(2) The minor has been living in a voluntary out-of-home placement pursuant to Section 16507.4.

(f) The juvenile court shall order the probation officer to provide child welfare services to the minor and the minor's parents or guardians for the purpose of facilitating reunification of the family within a maximum time period not to exceed 12 months. Services may be extended up to an additional six months if it can be shown that the objectives of the service plan can be achieved within the extended time period. Physical custody of the minor by the parents or guardians during the 18-month period shall not serve to interrupt the running of the period.

SEC. 5. Section 366 of the Welfare and Institutions Code is amended to read:

366. (a) The status of every dependent child in foster care shall be reviewed periodically as determined by the court but no less frequently than once every six months, as calculated from the date of the original dispositional hearing, until the permanency planning hearing required under Section 366.25 is completed. The court shall determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and shall project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship.

(b) Subsequent to the permanency planning hearing periodic reviews of each child in foster care shall be conducted pursuant to the requirements of Sections 366.25 and 16503.

SEC. 6. Section 366.25 of the Welfare and Institutions Code is amended to read:

366.25. (a) In order to provide stable, permanent homes for children, a court shall, if the minor cannot be returned home pursuant to subdivision (d) of Section 366.2, conduct a permanency planning hearing to make a determination regarding the future status of the minor no later than 12 months after the original dispositional hearing in which the child was removed from the custody of his or her parent, parents, or guardians, and in no case later than 18 months from the time of the minor's original placement pursuant to Section 319 or Section 16507.4 and periodically, but no less frequently than once each 18 months, thereafter during the continuation of foster care. The permanency planning hearing may be combined with the six months' review as provided for in Section 366.

(b) Notice of the proceeding to conduct the review shall be

mailed by the probation officer to the same persons as in an original proceeding, to the minor's present custodian, and to the counsel of record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on such persons not earlier than 30 days, nor later than 15 days prior to the date the review is to be conducted.

(c) At the hearing the court shall first determine whether the minor should be returned to his or her parent or guardian, pursuant to subdivision (e) of Section 366.2. If the minor is not returned to the custody of his or her parent or guardian the court shall determine whether there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within six months. If the court so determines it shall set another review hearing for not more than six months, which shall be a permanency planning hearing.

(d) If the court determines that the minor cannot be returned to the physical custody of his or her parent or guardian and that there is not a substantial probability that the minor will be returned within six months, the court shall develop a permanent plan for the minor. In order to enable the minor to obtain a permanent home the court shall make the following determinations and orders:

(1) If the court finds that the minor is adoptable, according to the provisions of this article, the court shall order the county counsel, or if there is no county counsel, the district attorney, to initiate an action to declare the minor permanently free from the custody and control of his or her parents or guardians pursuant to Section 232 of the Civil Code unless the court finds that any of the following conditions exist:

(A) The parents or guardians have maintained regular visitation and contact with the minor and the minor would benefit from continuing this relationship.

(B) A minor 12 years of age or older objects to termination of parental rights.

(C) The minor's foster parents are unable to adopt the minor because of exceptional circumstances which do not include an unwillingness to accept legal responsibility for the minor, but are willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her foster parents would be seriously detrimental to the emotional well-being of the minor.

(2) If the court finds that the minor is not adoptable or that one of the conditions in subparagraph (A), (B), or (C) of paragraph (1) apply, but that one or more adults are available and eligible to become legal guardians for the minor, the court shall order the appropriate county department to initiate or facilitate guardianship proceedings, unless the minor's foster parents are unable to become legal guardians of the minor because of exceptional circumstances which do not include an unwillingness to accept legal responsibility for the minor, but are willing and capable of providing the minor with a stable and permanent environment and the removal of the

minor from the physical custody of his or her foster parents would be seriously detrimental to the emotional well-being of the minor.

(3) If the court finds that the minor is not adoptable and that there is not a suitable adult available to become the legal guardian of the child, the court shall order the county welfare department or probation department to facilitate the placement of the minor in a home environment that can reasonably be expected to be stable and permanent. When the minor is in a foster home and the foster parents are willing and capable of providing a stable and permanent environment, the minor shall not be removed from the home if the removal would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to the foster parents.

(4) (A) If the court finds that the minor is not adoptable, that there is no suitable adult available to become the legal guardian of the minor, and that there are no suitable foster parents except exclusive-use homes available to provide the minor with a stable and permanent environment, the court may order the care, custody, and control of the minor transferred from the county welfare department or probation department to a licensed homefinding agency. The court shall consider the written recommendation of the county welfare director or chief probation officer regarding the suitability of such a transfer. The transfer shall be subject to further court orders.

(B) The licensed homefinding agency shall place the minor in a suitable licensed or exclusive-use home which has been certified by the agency as meeting licensing standards. The licensed homefinding agency shall be responsible for supporting the minor and for providing appropriate services to the minor, including those services ordered by the court. Responsibility for support of the minor shall not in and of itself create liability on the part of the homefinding agency to third persons injured by the minor. Those minors whose care, custody, and control is transferred to a homefinding agency shall not be eligible for foster care maintenance payments or child welfare services, except for emergency response services pursuant to Section 16504.

(C) Notwithstanding the provisions of subdivision (j), subsequent reviews for these minors shall be conducted every six months by the court. The licensed homefinding agency shall be required to submit reports for each minor in its care, custody, and control to the court concerning the continuing appropriateness and extent of compliance with the minor's permanent plan, the extent of compliance with the case plan, and the type and adequacy of services provided to the minor.

(e) Notwithstanding Section 1510 of the Probate Code, the proceeding for the appointment for a guardian for a minor under this section shall be in the juvenile court. In such a case, the juvenile court shall have the power to appoint a guardian pursuant to the standards and procedures otherwise specified by the Probate Code.

(f) When an adoption of the minor has been granted, the court shall terminate its jurisdiction over the minor.

(g) Periodic reviews conducted by the court subsequent to the initial permanency planning hearing shall determine the appropriateness of the placement, the continuing appropriateness and extent of compliance with the permanent plan for the child, the extent of compliance with the case plan, and adequacy of services provided to the child.

(h) Physical custody of a minor by his or her parents or guardians for insubstantial periods during the 12-month period prior to a permanency planning hearing shall not serve to interrupt the running of such periods.

(i) Subsequent permanency planning hearings need not be held if (1) the child has been freed for adoption and placed in the adoptive home identified in the previous permanency planning hearing and is awaiting finalization of the adoption or (2) the child is a ward of a guardian.

(j) Subsequent reviews shall be conducted every six months and be conducted by an administrative review board except when the court requires a court review or a court review is requested by the minor's parents or guardian or by the minor.

(k) Notwithstanding any other provision of law, the application of any person who, as a foster parent, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has substantial emotional ties to the foster parent and removal from the foster parent would be seriously detrimental to the child's well-being.

As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child.

SEC. 7. Section 11400 of the Welfare and Institutions Code is amended to read:

11400. For the purposes of this article, the following definitions shall apply:

(a) "Aid to Families with Dependent Children-Foster Care (AFDC-FC)" means the aid provided in behalf of needy children in foster care under the terms of this division.

(b) "Case plan" means a written document which at a minimum specifies the type of home in which the child shall be placed, the appropriateness of the home for meeting the child's needs, the agency's plan for ensuring that the child, the family, and foster parents receive services in order to meet the child's needs while in foster care, and to reunify the child with his or her family, or, when reunification is not possible, to facilitate an alternate permanent plan.

(c) "Exclusive-use home" means a family residence certified by a licensed homefinding agency and issued a certificate of approval by that agency as meeting licensing standards, and used exclusively by that homefinding agency for placements.

(d) "Family home" means the family residency of a licensee in which 24-hour care and supervision are provided for children.

(e) "Foster care" means the 24-hour out-of-home care provided to children whose own families are unable or unwilling to care for them, and who are in need of temporary or long-term substitute parenting.

(f) "Group home" means a nondetention privately operated residential home of any capacity that provides services in a group setting to children in need of care and supervision, as required by paragraph (1) of subdivision (a) of Section 1502 of the Health and Safety Code.

(g) "Periodic review" means review of a child's status by the juvenile court or by an administrative review panel, which shall include a determination of the continuing need for placement in foster care, evaluation of the goals for the placement and the progress toward meeting these goals, and development of a target date for the child's return home or establishment of alternative permanent placement.

(h) "Permanency planning hearing" means a hearing conducted by the juvenile court in which the child's future status, including whether the child shall be returned home or another permanent plan shall be developed, is determined.

(i) "Placement and care" refers to the responsibility for the welfare of a child vested in an agency or organization by virtue of the agency or organization having (1) been delegated care, custody, and control of a child by the juvenile court, (2) taken responsibility, pursuant to a relinquishment or termination of parental rights on a child, (3) taken the responsibility of supervising a child detained by the juvenile court pursuant to Section 319 or 636, or (4) signed a voluntary placement agreement for the child's placement; or to the responsibility designated to an individual by virtue of his or her being appointed the child's legal guardian.

(j) "Preplacement preventive services" means services which are designed to help children remain with their families by preventing or eliminating the need for removal.

(k) "Relative" means a person who can be a "caretaker relative" of a dependent child under the provisions of Section 406 of the Social Security Act.

(*l*) "Voluntary placement" means an out-of-home placement of a minor by (1) county welfare department after the parents or guardians have requested the assistance of the county welfare department and have signed a voluntary placement agreement; or (2) the county welfare department licensed public or private adoption agency, or the department acting as an adoption agency, after the parents have requested the assistance of either the county

welfare department, the licensed public or private adoption agency, or the department acting as an adoption agency for the purpose of adoption planning, and have signed a voluntary placement agreement.

(m) "Voluntary placement agreement" means a written agreement between either the county welfare department, a licensed public or private adoption agency, or the department acting as an adoption agency, and the parents or guardians of a minor which specifies the terms of the voluntary placement.

(n) "Original placement date" means the most recent date on which the court detained a child and ordered an agency to be responsible for supervising the child or the date on which an agency assumed responsibility for a child due to termination of parental rights, relinquishment, or voluntary placement.

SEC. 8. Section 11401 of the Welfare and Institutions Code is amended to read:

11401. Aid in the form of AFDC-FC shall be provided under this chapter on behalf of any child under the age of 18, except as provided in Section 11403, who meets the conditions of subdivision (a), (b), or (c):

(a) The child has been relinquished, for purposes of adoption, to a licensed adoption agency, or the department, or the parental rights of either or both of his or her parents have been terminated after an action under Section 232 of the Civil Code has been brought by a licensed adoption agency or the department, provided that the licensed adoption agency or the department, if responsible for placement and care, provides to those children all services as required by the department to children in foster care.

(b) The child has been deprived of parental support or care due to any of the reasons set out under Section 11250, provided:

(1) The child has been removed from the physical custody of his or her parent or guardian as a result of a judicial determination that continuance in the home would be contrary to the child's welfare and that, if the child was placed in foster care, reasonable efforts were made, and will continue to be made, to prevent or eliminate the need for removal of the child from his or her home and to make it possible for the child to return to his or her home, and

(A) Has been adjudged a dependent child of the court on the grounds that he or she is a person described by Section 300, or

(B) Has been adjudged a ward of the court on the grounds that he or she is a person described by Sections 601 and 602, or

(C) Has been detained under a court order pursuant to Section 319 or 636 which remains in effect; or

(2) The child has been voluntarily placed by his or her parent or guardian pursuant to Section 11401.1 or in a demonstration county, pursuant to Section 16550, et seq.; or

(3) The child is living in the home of a nonrelated legal guardian.

(c) The child has been placed in foster care under the provisions of the federal Indian Child Welfare Act. The provisions of Sections

11402, 11404, and 11405 shall not be construed as limiting payments to Indian children, as defined in the federal Indian Child Welfare Act, placed in accordance with that act.

SEC. 9. Section 11404.1 of the Welfare and Institutions Code is amended to read:

11404.1. In order to be eligible for AFDC-FC, the child shall receive a periodic review no less frequently than once every six months and a permanency planning hearing within 18 months of the original placement date and periodically but no less frequently than once each 18 months thereafter, as required throughout the period of foster care placement. Periodic reviews and permanency planning hearings shall not be required for a child who is residing with a nonrelated legal guardian.

SEC. 9.5. Section 232 of the Civil Code is amended to read:

232. (a) An action may be brought for the purpose of having any child under the age of 18 years declared free from the custody and control of either or both of his or her parents when the child comes within any of the following descriptions:

(1) The child has been left without provision for the child's identification by his or her parent or parents or by others or has been left by both of his or her parents or his or her sole parent in the care and custody of another for a period of six months or by one parent in the care and custody of the other parent for a period of one year without any provision for the child's support, or without communication from the parent or parents, with the intent on the part of the parent or parents to abandon the child. The failure to provide identification, failure to provide support, or failure to communicate shall be presumptive evidence of the intent to abandon. If the parent or parents have made only token efforts to support or communicate with the child, the court may declare the child abandoned by the parent or parents. In those cases in which the child has been left without provision for the child's identification and the whereabouts of the parents are unknown, a petition may be filed after the 120th day following the discovery of the child and citation by publication may be commenced. The petition may not be heard until after the 180th day following the discovery of the child.

(2) Who has been neglected or cruelly treated by either or both parents, if the child has been a dependent child of the juvenile court under any subdivision of Section 300 of the Welfare and Institutions Code and the parent or parents have been deprived of the child's custody for one year prior to the filing of a petition pursuant to this section. Physical custody by the parent or parents for insubstantial periods of time shall not serve to interrupt the running of the one-year period.

(3) Whose parent or parents suffer a disability because of the habitual use of alcohol, or any of the controlled substances specified in Schedules I to V, inclusive, of Division 10 (commencing with Section 11000) of the Health and Safety Code, except when these controlled substances are used as part of a medically prescribed plan,

or are morally depraved, if the child has been a dependent child of the juvenile court, and the parent or parents have been deprived of the child's custody continuously for one year immediately prior to the filing of a petition pursuant to this section. As used in this subdivision, "disability" means any physical or mental incapacity which renders the parent or parents unable to adequately care for and control the child. Physical custody by the parent or parents for insubstantial periods of time shall not interrupt the running of the one-year period.

(4) Whose parent or parents are convicted of a felony, if the facts of the crime of which the parent or parents were convicted are of a nature so as to prove the unfitness of the parent or parents to have the future custody and control of the child.

(5) Whose parent or parents have been declared by a court of competent jurisdiction, wherever situated, to be developmentally disabled or mentally ill, if, in the state or country in which the parent or parents reside or are hospitalized, the Director of Mental Health or the Director of Developmental Services, or their equivalent, if any, and the superintendent of the hospital of which, if any, the parent or parents are inmates or patients, certify that the parent or parents so declared to be developmentally disabled or mentally ill will not be capable of supporting or controlling the child in a proper manner.

(6) Whose parent or parents are mentally disabled and are likely to remain so in the foreseeable future. As used in this subdivision, "mentally disabled" means that a parent or parents suffer any mental incapacity or disorder which renders the parent or parents unable to adequately care for and control the child. The evidence of any two experts, each of whom shall be either a physician and surgeon, certified either by the American Board of Psychiatry and Neurology or under Section 6750 of the Welfare and Institutions Code, or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders, shall be required to support a finding under this subdivision. If, however, the parent or parents reside in another state or in a foreign country, the evidence required by this subdivision may be supplied by the affidavits of two experts, each of whom shall be either a physician and surgeon who is a resident of that state or foreign country, and who has been certified by a medical organization or society of that state or foreign country to practice psychiatric or neurological medicine, or by a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders and who is licensed in that state or authorized to practice in that country. If the rights of any parent are sought to be terminated pursuant to this subdivision, and the parent has no attorney, the court shall appoint an attorney for the parent pursuant to Section 237.5, whether or not a request for the appointment is made by the parent.

(7) Who has been in out-of-home placement under the supervision of the juvenile court, the county welfare department, or other public or private licensed child-placing agency for a one-year period, if the court finds that return of the child to the child's parent or parents would be detrimental to the child and that the parent or parents have failed during that period, and are likely to fail in the future, to maintain an adequate parental relationship with the child, which includes providing both a home and care and control for the child.

If the minor has been adjudged a dependent child of the juvenile court and placed in out-of-home placement pursuant to Section 361 of the Welfare and Institutions Code, the one-year period shall be calculated from the date of the dispositional hearing at which the child was placed in out-of-home placement pursuant to that section. If the minor is in placement under the supervision of a county welfare department or other public or private licensed child-placing agency, pursuant to a voluntary placement, as described in Section 16507.4 of the Welfare and Institutions Code, the one-year period shall be calculated from the date the minor entered out-of-home placement.

The court shall make a determination that reasonable services have been provided or offered to the parents which were designed to aid the parents to overcome the problems which led to the deprivation or continued loss of custody and that despite the availability of these services, return of the child to the parents would be detrimental to the child. The probation officer or social worker currently assigned to the case of the child shall appear at the termination proceedings.

If the minor has been adjudged to be a dependent child of the court pursuant to Section 300 of the Welfare and Institutions Code, the court shall review and consider the contents of the juvenile court file in determining if the services offered were reasonable under the circumstances.

Trial placement of the child in the physical custody of the parent or visitation of the child with the parent during the one-year period, when the trial placement or visitation does not result in permanent placement of the child with the parent, shall not serve to interrupt the running of the one-year period.

(8) A minor who has been found to be a dependent child of the court, pursuant to subdivision (d) of Section 300 of the Welfare and Institutions Code, as a result of severe physical abuse by a parent inflicted when the minor was under three years of age, who has been removed from the physical custody of the parent because of severe physical abuse by that parent pursuant to paragraph (5) of subdivision (b) of Section 361 of the Welfare and Institutions Code, and concerning whom the juvenile court has found that attempts at reunification with his or her parent or parents would be detrimental, pursuant to subdivision (c) of Section 366 of the Welfare and Institutions Code. In cases brought under this subdivision, the

finding of the juvenile court that the minor was a victim of severe physical abuse, if final, shall be binding on the court. For purposes of this section, "severe physical abuse" means any of the following:

(A) Any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, it would cause permanent physical disfigurement, permanent physical disability, or death.

(B) Any single act of sexual abuse which causes significant bleeding, deep bruising, or significant external or internal swelling.

(C) Repeated acts of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

The provisions of this paragraph only shall be applicable to free a child from the custody and control of a parent who has inflicted severe physical abuse on that child.

(b) At all termination proceedings, the court shall consider the wishes of the child and shall act in the best interests of the child.

(c) A finding pursuant to this section shall be supported by clear and convincing evidence.

(d) Section 5158 shall not apply to proceedings pursuant to this section.

SEC. 10. Section 361 of the Welfare and Institutions Code is amended to read:

361. (a) In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all such limitations. The limitations shall not exceed those necessary to protect the child.

(b) No dependent child shall be taken from the physical custody of his or her parents or guardians unless, upon the hearing, the juvenile court finds clear and convincing evidence of any of the following:

(1) There is a substantial danger to the physical health of the minor or would be if the minor was returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parents' or guardians' physical custody.

(2) The parent or guardian of the minor is unwilling to have physical custody of the minor, and the parent or guardian has been notified that if the minor remains out of their physical custody for the period specified in Section 366.25, the minor may be declared permanently free from their custody and control under Section 232 of the Civil Code.

(3) The minor is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, and there are no reasonable means by which the minor's emotional health may be protected without removing the minor from the minor's parents' or guardians' physical custody.

(4) The minor has been sexually abused and there are no reasonable means by which the minor can be protected from further sexual abuse without removing the minor from his or her parent or guardian or the minor does not wish to return to his or her parent or guardian.

The court shall state the facts on which the decision to remove the child is based. The court shall make a determination as to whether reasonable efforts were made to prevent or to eliminate the need for removal of the child from his or her home. The court also shall inform the parent or parents of the provisions of Section 366.25 and Section 232 of the Civil Code and shall specify that their parental rights may be terminated permanently under these sections if they are not able to resume custody within 12 months.

(c) If the minor is taken from the physical custody of the minor's parents or guardians and unless the minor is placed with relatives, the minor shall be placed in foster care in the county of residence of the minor's parents or guardians in order to facilitate reunification of the family.

In the event that there are no appropriate placements available in the parents' or guardians' county, a placement may be made in an appropriate place in another county, preferably a county located adjacent to the parents' or guardians' community of residence.

Nothing in this section shall be interpreted as requiring multiple disruptions of the minor's placement corresponding to frequent changes of residence by the parents or guardians. In determining whether the minor should be moved, the probation officer will take into consideration the potential harmful effects of disrupting the placement on the minor and the parents' or guardians' reason for the move.

(d) Whenever the probation officer must change the placement of the minor and is unable to find a suitable placement within the county and must place the minor outside the county, no such placement shall be made until he or she has served written notice on the parents or guardians in the same manner as provided in Section 366 at least 14 days prior to the placement unless the child's health or well-being is endangered by delaying the action or would be endangered if prior notice were given. The notice shall state the reasons which require placement outside the county. The parents or guardians may object to the placement not later than seven days after receipt of the notice and, upon objection the court shall hold a hearing not later than five days after the objection and prior to the placement. The court shall order out-of-county placement if it finds that the minor's particular needs require placement outside the county.

(e) The court shall make all the findings required by subdivision (a) of Section 366 in either of the following circumstances:

(1) The minor has been taken from the custody of his or her parents or guardians and has been living in an out-of-home placement pursuant to Section 319.

(2) The minor has been living in a voluntary out-of-home placement pursuant to Section 16507.4.

(f) The juvenile court shall order the probation officer to provide child welfare services to the minor and the minor's parents or guardians for the purpose of facilitating reunification of the family within a maximum time period not to exceed 12 months. When counseling or other treatment services are ordered, the parent shall be ordered to participate in such services, unless such participation is deemed by the court to be inappropriate or potentially detrimental to the child. Services may be extended up to an additional six months if it can be shown that the objectives of the service plan can be achieved within the extended time period. Physical custody of the minor by the parents or guardians during the 18-month period shall not serve to interrupt the running of the period.

SEC. 11. Section 361 of the Welfare and Institutions Code is amended to read:

361. (a) In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all such limitations. The limitations shall not exceed those necessary to protect the child.

(b) No dependent child shall be taken from the physical custody of his or her parents or guardians unless, upon the hearing, the juvenile court finds clear and convincing evidence of any of the following:

(1) There is a substantial danger to the physical health of the minor or would be if the minor was returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parents' or guardians' physical custody.

(2) The parent or guardian of the minor is unwilling to have physical custody of the minor, and the parent or guardian has been notified that if the minor remains out of their physical custody for the period specified in Section 366.25, the minor may be declared permanently free from their custody and control under Section 232 of the Civil Code.

(3) The minor is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, and there are no reasonable means by which the minor's emotional health may be protected without removing the minor from the minor's parents' or guardians' physical custody.

(4) The minor has been sexually abused and there are no reasonable means by which the minor can be protected from further sexual abuse without removing the minor from his or her parent or guardian or the minor does not wish to return to his or her parent or guardian.

(5) The minor, while under the age of three, was a victim of severe physical abuse by any parent or guardian seeking custody of the minor, or by any person sharing the home of the parent or guardian at the time he or she seeks custody of the minor. For the purposes of this section, "severe physical abuse" means any of the following: any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, it would cause permanent physical disfigurement, permanent physical disability, or death; any single act of sexual abuse which causes significant bleeding, deep bruising, or significant external or internal swelling; or repeated acts of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness. A minor may not be removed from the physical custody of his or her parents or guardians on the basis of a finding of severe physical abuse unless the probation officer has made such an allegation pursuant to Section 332.

The court shall state the facts on which the decision to remove the child is based. The court shall make a determination as to whether reasonable efforts were made to prevent or to eliminate the need for removal of the child from his or her home. The court also shall inform the parent or parents of the provisions of Section 366.25 of this code and Section 232 of the Civil Code and shall specify one of the following: (A) if the minor is removed for one of the reasons stated in paragraphs (1) to (4), inclusive, of this subdivision, or because of severe physical abuse inflicted by a person other than the parent or parents pursuant to paragraph (5) of this subdivision, that the parent's or parents' parental rights may be terminated permanently under Section 366.25 of this code and Section 232 of the Civil Code if they are not able to resume custody within 12 months or (B) if the minor is removed because of severe physical abuse by a parent or parents as stated in paragraph (5) of this subdivision, the parental rights of the parent or parents inflicting that abuse may be terminated permanently under Section 366.25 of this code and Section 232 of the Civil Code if the court finds, upon completion of the investigation required under subdivision (e), that reunification with the parent or parents would be detrimental to the minor. In such a case, the court shall specifically advise the parent or parents of paragraph (8) of subdivision (a) of Section 232 of the Civil Code and of the consequences which may result pursuant to the provisions of that paragraph from matters proven in and found by the juvenile court.

(c) If the minor is taken from the physical custody of the minor's parents or guardians and unless the minor is placed with relatives, the minor shall be placed in foster care in the county of residence of the minor's parents or guardians in order to facilitate reunification of the family.

In the event that there are no appropriate placements available in the parents' or guardians' county, a placement may be made in an appropriate place in another county, preferably a county located

adjacent to the parents' or guardians' community of residence.

Nothing in this section shall be interpreted as requiring multiple disruptions of the minor's placement corresponding to frequent changes of residence by the parents or guardians. In determining whether the minor should be moved, the probation officer will take into consideration the potential harmful effects of disrupting the placement on the minor and the parents' or guardians' reason for the move.

(d) Whenever the probation officer must change the placement of the minor and is unable to find a suitable placement within the county and must place the minor outside the county, no such placement shall be made until he or she has served written notice on the parents or guardians in the same manner as provided in Section 366 at least 14 days prior to the placement unless the child's health or well-being is endangered by delaying the action or would be endangered if prior notice were given. The notice shall state the reasons which require placement outside the county. The parents or guardians may object to the placement not later than seven days after receipt of the notice and, upon objection the court shall hold a hearing not later than five days after the objection and prior to the placement. The court shall order out-of-county placement if it finds that the minor's particular needs require placement outside the county.

(e) The court shall make all the findings required by subdivision (a) of Section 366 in either of the following circumstances:

(1) The minor has been taken from the custody of his or her parents or guardians and has been living in an out-of-home placement pursuant to Section 319.

(2) The minor has been living in a voluntary out-of-home placement pursuant to Section 16507.4.

(f) In any case where a minor is removed from a parent's or guardian's custody for one of the reasons stated in paragraphs (1) to (4), inclusive, of subdivision (b), or because of severe physical abuse inflicted by a person other than the parent or parents pursuant to paragraph (5) of subdivision (b), the juvenile court shall order the probation officer to provide child welfare services to the minor and the minor's parents or guardians for the purpose of facilitating reunification of the family within a maximum time period not to exceed 12 months. Services may be extended up to an additional six months if it can be shown that the objectives of the service plan can be achieved within the extended time period. Physical custody of the minor by the parents or guardians during the 18-month period shall not serve to interrupt the running of the period. In any case where a minor is removed from a parent's or guardian's custody because of severe abuse by a parent or parents as stated in paragraph (5) of subdivision (b), the juvenile court shall order the probation officer to provide appropriate reunification services except unsupervised visits and trial placements in the home and to investigate the circumstances surrounding the severe physical abuse of the minor

and to prepare a report which advises the court whether there are circumstances which, in spite of the severe physical abuse, indicate that it would not be detrimental to the minor to continue to attempt reunification of the family. The probation officer shall provide the parent or parents with a copy of the report, including his or her conclusion that it would or would not be detrimental to the minor to continue to attempt reunification of the family, at least 14 days before the hearing. This report shall be submitted to the juvenile court at the first review hearing required by subdivision (a) of Section 366. The report shall include a statement of the circumstances relied upon in drawing the conclusion that it would or would not be detrimental to the minor to continue to attempt reunification of the family. If the report concludes that reunification would be detrimental to the minor, the report shall make recommendations concerning an appropriate permanent plan for the minor.

SEC. 12. Section 361 of the Welfare and Institutions Code is amended to read:

361. (a) In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all such limitations. The limitations shall not exceed those necessary to protect the child.

(b) No dependent child shall be taken from the physical custody of his or her parents or guardians unless, upon the hearing, the juvenile court finds clear and convincing evidence of any of the following:

(1) There is a substantial danger to the physical health of the minor or would be if the minor was returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parents' or guardians' physical custody.

(2) The parent or guardian of the minor is unwilling to have physical custody of the minor, and the parent or guardian has been notified that if the minor remains out of their physical custody for the period specified in Section 366.25, the minor may be declared permanently free from their custody and control under Section 232 of the Civil Code.

(3) The minor is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, and there are no reasonable means by which the minor's emotional health may be protected without removing the minor from the minor's parents' or guardians' physical custody.

(4) The minor has been sexually abused and there are no reasonable means by which the minor can be protected from further sexual abuse without removing the minor from his or her parent or guardian or the minor does not wish to return to his or her parent

or guardian.

(5) The minor, while under the age of three, was a victim of severe physical abuse by any parent or guardian seeking custody of the minor, or by any person sharing the home of the parent or guardian at the time he or she seeks custody of the minor. For the purposes of this section, "severe physical abuse" means any of the following: any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, it would cause permanent physical disfigurement, permanent physical disability, or death; any single act of sexual abuse which causes significant bleeding, deep bruising, or significant external or internal swelling; or repeated acts of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness. A minor may not be removed from the physical custody of his or her parents or guardians on the basis of a finding of severe physical abuse unless the probation officer has made such an allegation pursuant to Section 332.

The court shall state the facts on which the decision to remove the child is based. The court shall make a determination as to whether reasonable efforts were made to prevent or to eliminate the need for removal of the child from his or her home. The court also shall inform the parent or parents of the provisions of Section 366.25 of this code and Section 232 of the Civil Code and shall specify one of the following: (A) if the minor is removed for one of the reasons stated in paragraphs (1) to (4), inclusive, of this subdivision, or because of severe physical abuse inflicted by a person other than the parent or parents pursuant to paragraph (5) of this subdivision, that the parent's or parents' parental rights may be terminated permanently under Section 366.25 of this code and Section 232 of the Civil Code if they are not able to resume custody within 12 months or (B) if the minor is removed because of severe physical abuse by a parent or parents as stated in paragraph (5) of this subdivision, the parental rights of the parent or parents inflicting that abuse may be terminated permanently under Section 366.25 of this code and Section 232 of the Civil Code if the court finds, upon completion of the investigation required under subdivision (e), that reunification with the parent or parents would be detrimental to the minor. In such a case, the court shall specifically advise the parent or parents of paragraph (8) of subdivision (a) of Section 232 of the Civil Code and of the consequences which may result pursuant to the provisions of that paragraph from matters proven in and found by the juvenile court.

(c) If the minor is taken from the physical custody of the minor's parents or guardians and unless the minor is placed with relatives, the minor shall be placed in foster care in the county of residence of the minor's parents or guardians in order to facilitate reunification of the family.

In the event that there are no appropriate placements available in the parents' or guardians' county, a placement may be made in an

appropriate place in another county, preferably a county located adjacent to the parents' or guardians' community of residence.

Nothing in this section shall be interpreted as requiring multiple disruptions of the minor's placement corresponding to frequent changes of residence by the parents or guardians. In determining whether the minor should be moved, the probation officer will take into consideration the potential harmful effects of disrupting the placement on the minor and the parents' or guardians' reason for the move.

(d) Whenever the probation officer must change the placement of the minor and is unable to find a suitable placement within the county and must place the minor outside the county, no such placement shall be made until he or she has served written notice on the parents or guardians in the same manner as provided in Section 366 at least 14 days prior to the placement unless the child's health or well-being is endangered by delaying the action or would be endangered if prior notice were given. The notice shall state the reasons which require placement outside the county. The parents or guardians may object to the placement not later than seven days after receipt of the notice and, upon objection the court shall hold a hearing not later than five days after the objection and prior to the placement. The court shall order out-of-county placement if it finds that the minor's particular needs require placement outside the county.

(e) The court shall make all the findings required by subdivision (a) of Section 366 in either of the following circumstances:

(1) The minor has been taken from the custody of his or her parents or guardians and has been living in an out-of-home placement pursuant to Section 319.

(2) The minor has been living in a voluntary out-of-home placement pursuant to Section 16507.4.

(f) In any case where a minor is removed from a parent's or guardian's custody for one of the reasons stated in paragraphs (1) to (4), inclusive, of subdivision (b), or because of severe physical abuse inflicted by a person other than the parent or parents pursuant to paragraph (5) of subdivision (b), the juvenile court shall order the probation officer to provide child welfare services to the minor and the minor's parents or guardians for the purpose of facilitating reunification of the family within a maximum time period not to exceed 12 months. When counseling or other treatment services are ordered, the parent shall be ordered to participate in such services, unless such participation is deemed by the court to be inappropriate or potentially detrimental to the child. Services may be extended up to an additional six months if it can be shown that the objectives of the service plan can be achieved within the extended time period. Physical custody of the minor by the parents or guardians during the 18-month period shall not serve to interrupt the running of the period. In any case where a minor is removed from a parent's or guardian's custody because of severe abuse by a parent or parents as

stated in paragraph (5) of subdivision (b), the juvenile court shall order the probation officer to provide appropriate reunification services except unsupervised visits and trial placements in the home and to investigate the circumstances surrounding the severe physical abuse of the minor and to prepare a report which advises the court whether there are circumstances which, in spite of the severe physical abuse, indicate that it would not be detrimental to the minor to continue to attempt reunification of the family. The probation officer shall provide the parent or parents with a copy of the report, including his or her conclusion that it would or would not be detrimental to the minor to continue to attempt reunification of the family, at least 14 days before the hearing. This report shall be submitted to the juvenile court at the first review hearing required by subdivision (a) of Section 366. The report shall include a statement of the circumstances relied upon in drawing the conclusion that it would or would not be detrimental to the minor to continue to attempt reunification of the family. If the report concludes that reunification would be detrimental to the minor, the report shall make recommendations concerning an appropriate permanent plan for the minor.

SEC. 13. Section 366 of the Welfare and Institutions Code is amended to read:

366. (a) The status of every dependent child in foster care shall be reviewed periodically as determined by the court but no less frequently than once every six months, as calculated from the date of the original dispositional hearing, until the permanency planning hearing required under Section 366.25 is completed. The court shall determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and shall project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship.

(b) Subsequent to the permanency planning hearing periodic reviews of each child in foster care shall be conducted pursuant to the requirements of Sections 366.25 and 16503.

(c) In the case of a minor who has been removed from the physical custody of his or her parent or guardian because of severe physical abuse pursuant to paragraph (5) of subdivision (b) of Section 361, the court shall, as soon as reasonably feasible but in no case later than six months from that removal, conduct a hearing to review the report of the probation officer required by subdivision (e) of Section 361. If the court finds at the review that it would not be detrimental to the minor to attempt to reunify the minor with his or her parent or guardian, the court shall proceed pursuant to subdivision (a). If the court finds that it would be detrimental to the minor to attempt to reunify the minor with his or her parent or guardian, the court shall immediately proceed to conduct a permanency planning hearing for the minor pursuant to Section

366.25. The probation department shall have the burden of establishing that detriment by a preponderance of the evidence.

SEC. 14. Section 366.25 of the Welfare and Institutions Code is amended to read:

366.25. (a) In order to provide stable, permanent homes for children, a court shall, if the minor cannot be returned home pursuant to subdivision (e) of Section 366.2, conduct a permanency planning hearing to make a determination regarding the future status of the minor no later than 12 months after the original dispositional hearing in which the child was removed from the custody of his or her parent, parents, or guardians, and in no case later than 18 months from the time of the minor's original placement pursuant to Section 319 or Section 16507.4 and periodically, but no less frequently than once each 18 months, thereafter during the continuation of foster care. The permanency planning hearing may be combined with the six months' review as provided for in Section 366. In the case of a minor who has been removed from his or her parent or guardian pursuant to paragraph (5) of subdivision (b) of Section 361 because of severe physical abuse, and concerning whom the court has found, pursuant to subdivision (c) of Section 366, that return of the minor to his or her parent or guardian would be detrimental to the minor, a permanency planning hearing shall be held immediately upon the making of such a finding, or as soon thereafter as is reasonably feasible.

(b) Notice of the proceeding to conduct the review shall be mailed by the probation officer to the same persons as in an original proceeding, to the minor's present custodian, and to the counsel of record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on such persons not earlier than 30 days, nor later than 15 days prior to the date the review is to be conducted.

(c) Except in cases where permanency planning is conducted pursuant to subdivision (c) of Section 366, the court shall first determine at the hearing whether the minor should be returned to his or her parent or guardian, pursuant to subdivision (e) of Section 366.2. If the minor is not returned to the custody of his or her parent or guardian the court shall determine whether there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within six months. If the court so determines it shall set another review hearing for not more than six months, which shall be a permanency planning hearing. In the case of a minor who has been removed from the physical custody of his or her parent or guardian because of severe physical abuse pursuant to paragraph (5) of subdivision (b) of Section 361, and concerning whom the court has found pursuant to subdivision (c) of Section 366 that attempts at reunification with his or her parent or guardian would be detrimental, the court shall not continue proceedings for further review pursuant to this subdivision.

(d) If the court determines that the minor cannot be returned to

the physical custody of his or her parent or guardian and that there is not a substantial probability that the minor will be returned within six months, the court shall develop a permanent plan for the minor. In order to enable the minor to obtain a permanent home the court shall make the following determinations and orders:

(1) If the court finds that the minor is adoptable, according to this article, the court shall authorize the appropriate county or state agency to proceed to free the minor from the custody and control of his or her parents or guardians pursuant to Section 232 of the Civil Code unless the court finds that any of the following conditions exist:

(A) The parents or guardians have maintained regular visitation and contact with the minor and the minor would benefit from continuing this relationship.

(B) A minor 12 years of age or older objects to termination of parental rights.

(C) The minor's foster parents are unable to adopt the minor because of exceptional circumstances which do not include an unwillingness to accept legal responsibility for the minor, but are willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her foster parents would be seriously detrimental to the emotional well-being of the minor.

(2) If the court finds that the minor is not adoptable or that one of the conditions in subparagraph (A), (B), or (C) of paragraph (1) apply, but that one or more adults are available and eligible to become legal guardians for the minor, the court shall order the appropriate county department to initiate or facilitate guardianship proceedings, unless the minor's foster parents are unable to become legal guardians of the minor because of exceptional circumstances which do not include an unwillingness to accept legal responsibility for the minor, but are willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her foster parents would be seriously detrimental to the emotional well-being of the minor.

(3) If the court finds that the minor is not adoptable and that there is not a suitable adult available to become the legal guardian of the child, the court shall order the county welfare department or probation department to facilitate the placement of the minor in a home environment that can reasonably be expected to be stable and permanent. When the minor is in a foster home and the foster parents are willing and capable of providing a stable and permanent environment, the minor shall not be removed from the home if the removal would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to the foster parents.

(4) (A) If the court finds that the minor is not adoptable, that there is no suitable adult available to become the legal guardian of the minor, and that there are no suitable foster parents except exclusive-use homes available to provide the minor with a stable and

permanent environment, the court may order the care, custody, and control of the minor transferred from the county welfare department or probation department to a licensed homefinding agency. The court shall consider the written recommendation of the county welfare director or chief probation officer regarding the suitability of such a transfer. The transfer shall be subject to further court orders.

(B) The licensed homefinding agency shall place the minor in a suitable licensed or exclusive-use home which has been certified by the agency as meeting licensing standards. The licensed homefinding agency shall be responsible for supporting the minor and for providing appropriate services to the minor, including those services ordered by the court. Responsibility for support of the minor shall not in and of itself create liability on the part of the homefinding agency to third persons injured by the minor. Those minors whose care, custody, and control are transferred to a homefinding agency shall not be eligible for foster care maintenance payments or child welfare services, except for emergency response services pursuant to Section 16504.

(C) Notwithstanding the provisions of subdivision (j), subsequent reviews for these minors shall be conducted every six months by the court. The licensed homefinding agency shall be required to submit reports for each minor in its care, custody, and control to the court concerning the continuing appropriateness and extent of compliance with the minor's permanent plan, the extent of compliance with the case plan, and the type and adequacy of services provided to the minor.

(e) Notwithstanding Section 1510 of the Probate Code, the proceeding for the appointment for a guardian for a minor under this section shall be in the juvenile court. In such a case, the juvenile court shall have the power to appoint a guardian pursuant to the standards and procedures otherwise specified by the Probate Code.

(f) When an adoption of the minor has been granted, the court shall terminate its jurisdiction over the minor.

(g) Periodic reviews conducted by the court subsequent to the initial permanency planning hearing shall determine the appropriateness of the placement, the continuing appropriateness and extent of compliance with the permanent plan for the child, the extent of compliance with the case plan, and adequacy of services provided to the child.

(h) Physical custody of a minor by his or her parents or guardians for insubstantial periods during the 12-month period prior to a permanency planning hearing shall not serve to interrupt the running of such periods.

(i) Subsequent permanency planning hearings need not be held if (1) the child has been freed for adoption and placed in the adoptive home identified in the previous permanency planning hearing and is awaiting finalization of the adoption or (2) the child is a ward of a guardian.

(j) Subsequent reviews shall be conducted every six months and be conducted by an administrative review board except when the court requires a court review or a court review is requested by the minor's parents or guardian or by the minor.

(k) Notwithstanding any other provision of law, the application of any person who, as a foster parent, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has substantial emotional ties to the foster parent and removal from the foster parent would be seriously detrimental to the child's well-being.

As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child.

SEC. 15. Section 366.25 of the Welfare and Institutions Code is amended to read:

366.25. (a) In order to provide stable, permanent homes for children, a court shall, if the minor cannot be returned home pursuant to subdivision (e) of Section 366.2, conduct a permanency planning hearing to make a determination regarding the future status of the minor no later than 12 months after the original dispositional hearing in which the child was removed from the custody of his or her parent, parents, or guardians, and in no case later than 18 months from the time of the minor's original placement pursuant to Section 319 or Section 16507.4 and periodically, but no less frequently than once each 18 months, thereafter during the continuation of foster care. The permanency planning hearing may be combined with the six months' review as provided for in Section 366.

(b) Notice of the proceeding to conduct the review shall be mailed by the probation officer to the same persons as in an original proceeding, to the minor's present custodian, and to the counsel of record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on such persons not earlier than 30 days, nor later than 15 days prior to the date the review is to be conducted.

(c) At the hearing the court shall first determine whether the minor should be returned to his or her parent or guardian, pursuant to subdivision (e) of Section 366.2. If the minor is not returned to the custody of his or her parent or guardian the court shall determine whether there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within six months. If the court so determines it shall set another review hearing for not more than six months, which shall be a permanency planning hearing.

(d) If the court determines that the minor cannot be returned to

the physical custody of his or her parent or guardian and that there is not a substantial probability that the minor will be returned within six months, the court shall develop a permanent plan for the minor. In order to enable the minor to obtain a permanent home the court shall make the following determinations and orders:

(1) If the court finds that the minor is adoptable, according to the provisions of this article, the court shall order the county counsel, or if there is no county counsel, the district attorney, to initiate an action to declare the minor permanently free from the custody and control of his or her parents or guardians pursuant to Section 232 of the Civil Code unless the court finds that any of the following conditions exist:

(A) The parents or guardians have maintained regular visitation and contact with the minor and the minor would benefit from continuing this relationship.

(B) A minor 12 years of age or older objects to termination of parental rights.

(C) The minor's foster parents are unable to adopt the minor because of exceptional circumstances which do not include an unwillingness to accept legal responsibility for the minor, but are willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her foster parents would be seriously detrimental to the emotional well-being of the minor.

(2) If the court finds that the minor is unadoptable or that one of the conditions in subparagraph (A), (B), or (C) of paragraph (1) applies, the court shall order the appropriate county department to initiate or facilitate the placement of the minor in a home environment that can be reasonably expected to be stable and permanent. This may be accomplished by initiating legal guardianship proceedings or long-term foster care. Legal guardianship shall be considered before long-term foster care, if it is in the best interests of the child and if a suitable guardian can be found. When the minor is in a foster home and the foster parents are willing and capable of providing a stable and permanent environment, the minor shall not be removed from the home if the removal would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to the foster parents.

(3) (A) If the court finds that the minor is not adoptable, that there is no suitable adult available to become the legal guardian of the minor, and that there are no suitable foster parents except exclusive-use homes available to provide the minor with a stable and permanent environment, the court may order the care, custody, and control of the minor transferred from the county welfare department or probation department to a licensed homefinding agency. The court shall consider the written recommendation of the county welfare director or chief probation officer regarding the suitability of such a transfer. The transfer shall be subject to further court orders.

(B) The licensed homefinding agency shall place the minor in a suitable licensed or exclusive-use home which has been certified by the agency as meeting licensing standards. The licensed homefinding agency shall be responsible for supporting the minor and for providing appropriate services to the minor, including those services ordered by the court. Responsibility for support of the minor shall not in and of itself create liability on the part of the homefinding agency to third persons injured by the minor. Those minors whose care, custody, and control are transferred to a homefinding agency shall not be eligible for foster care maintenance payments or child welfare services, except for emergency response services pursuant to Section 16504.

(C) Notwithstanding the provisions of subdivision (j), subsequent reviews for these minors shall be conducted every six months by the court. The licensed homefinding agency shall be required to submit reports for each minor in its care, custody, and control to the court concerning the continuing appropriateness and extent of compliance with the minor's permanent plan, the extent of compliance with the case plan, and the type and adequacy of services provided to the minor.

(e) Notwithstanding Section 1510 of the Probate Code, the proceeding for the appointment for a guardian for a minor under this section shall be in the juvenile court. In such a case, the juvenile court may appoint a guardian pursuant to the standards and procedures otherwise specified by the Probate Code.

(f) When an adoption of the minor has been granted, the court shall terminate its jurisdiction over the minor.

(g) Periodic reviews conducted by the court subsequent to the initial permanency planning hearing shall determine the appropriateness of the placement, the continuing appropriateness and extent of compliance with the permanent plan for the child, the extent of compliance with the case plan, and adequacy of services provided to the child.

(h) Physical custody of a minor by his or her parents or guardians for insubstantial periods during the 12-month period prior to a permanency planning hearing shall not serve to interrupt the running of such periods.

(i) Subsequent permanency planning hearings need not be held if (1) the child has been freed for adoption and placed in the adoptive home identified in the previous permanency planning hearing and is awaiting finalization of the adoption or (2) the child is a ward of a guardian.

(j) Subsequent reviews shall be conducted every six months and be conducted by an administrative review board except when the court requires a court review or a court review is requested by the minor's parents or guardian or by the minor.

(k) Notwithstanding any other provision of law, the application of any person who, as a foster parent, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or

who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has substantial emotional ties to the foster parent and removal from the foster parent would be seriously detrimental to the child's well-being.

As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child.

SEC. 16. Section 366.25 of the Welfare and Institutions Code is amended to read:

366.25. (a) In order to provide stable, permanent homes for children, a court shall, if the minor cannot be returned home pursuant to subdivision (e) of Section 366.2, conduct a permanency planning hearing to make a determination regarding the future status of the minor no later than 12 months after the original dispositional hearing in which the child was removed from the custody of his or her parent, parents, or guardians, and in no case later than 18 months from the time of the minor's original placement pursuant to Section 319 or Section 16507.4 and periodically, but no less frequently than once each 18 months, thereafter during the continuation of foster care. The permanency planning hearing may be combined with the six months' review as provided for in Section 366. In the case of a minor who has been removed from his or her parent or guardian pursuant to paragraph (5) of subdivision (b) of Section 361 because of severe physical abuse, and concerning whom the court has found, pursuant to subdivision (c) of Section 366, that return of the minor to his or her parent or guardian would be detrimental to the minor, a permanency planning hearing shall be held immediately upon the making of such a finding, or as soon thereafter as is reasonably feasible.

(b) Notice of the proceeding to conduct the review shall be mailed by the probation officer to the same persons as in an original proceeding, to the minor's present custodian, and to the counsel of record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on such persons not earlier than 30 days, nor later than 15 days prior to the date the review is to be conducted.

(c) Except in cases where permanency planning is conducted pursuant to subdivision (c) of Section 366, the court shall first determine at the hearing whether the minor should be returned to his or her parent or guardian, pursuant to subdivision (e) of Section 366.2. If the minor is not returned to the custody of his or her parent or guardian the court shall determine whether there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within six months. If the court so determines it shall set another review hearing for not more than six months, which shall be a permanency planning hearing. In the case

of a minor who has been removed from the physical custody of his or her parent or guardian because of severe physical abuse pursuant to paragraph (5) of subdivision (b) of Section 361, and concerning whom the court has found pursuant to subdivision (c) of Section 366 that attempts at reunification with his or her parent or guardian would be detrimental, the court shall not continue proceedings for further review pursuant to this subdivision.

(d) If the court determines that the minor cannot be returned to the physical custody of his or her parent or guardian and that there is not a substantial probability that the minor will be returned within six months, the court shall develop a permanent plan for the minor. In order to enable the minor to obtain a permanent home the court shall make the following determinations and orders:

(1) If the court finds that the minor is adoptable, according to this article, the court shall authorize the appropriate county or state agency to proceed to free the minor from the custody and control of his or her parents or guardians pursuant to Section 232 of the Civil Code unless the court finds that any of the following conditions exist:

(A) The parents or guardians have maintained regular visitation and contact with the minor and the minor would benefit from continuing this relationship.

(B) A minor 12 years of age or older objects to termination of parental rights.

(C) The minor's foster parents are unable to adopt the minor because of exceptional circumstances which do not include an unwillingness to accept legal responsibility for the minor, but are willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her foster parents would be seriously detrimental to the emotional well-being of the minor.

(2) If the court finds that the minor is unadoptable or that one of the conditions in subparagraph (A), (B), or (C) of paragraph (1) applies, the court shall order the appropriate county department to initiate or facilitate the placement of the minor in a home environment that can be reasonably expected to be stable and permanent. This may be accomplished by initiating legal guardianship proceedings or long-term foster care. Legal guardianship shall be considered before long-term foster care, if it is in the best interests of the child and if a suitable guardian can be found. When the minor is in a foster home and the foster parents are willing and capable of providing a stable and permanent environment, the minor shall not be removed from the home if the removal would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to the foster parents.

(3) (A) If the court finds that the minor is not adoptable, that there is no suitable adult available to become the legal guardian of the minor, and that there are no suitable foster parents except exclusive-use homes available to provide the minor with a stable and

permanent environment, the court may order the care, custody, and control of the minor transferred from the county welfare department or probation department to a licensed homefinding agency. The court shall consider the written recommendation of the county welfare director or chief probation officer regarding the suitability of such a transfer. The transfer shall be subject to further court orders.

(B) The licensed homefinding agency shall place the minor in a suitable licensed or exclusive-use home which has been certified by the agency as meeting licensing standards. The licensed homefinding agency shall be responsible for supporting the minor and for providing appropriate services to the minor, including those services ordered by the court. Responsibility for support of the minor shall not in and of itself create liability on the part of the homefinding agency to third persons injured by the minor. Those minors whose care, custody, and control are transferred to a homefinding agency shall not be eligible for foster care maintenance payments or child welfare services, except for emergency response services pursuant to Section 16504.

(C) Notwithstanding the provisions of subdivision (j), subsequent reviews for these minors shall be conducted every six months by the court. The licensed homefinding agency shall be required to submit reports for each minor in its care, custody, and control to the court concerning the continuing appropriateness and extent of compliance with the minor's permanent plan, the extent of compliance with the case plan, and the type and adequacy of services provided to the minor.

(e) Notwithstanding Section 1510 of the Probate Code, the proceeding for the appointment for a guardian for a minor under this section shall be in the juvenile court. In such a case, the juvenile court may appoint a guardian pursuant to the standards and procedures otherwise specified by the Probate Code.

(f) When an adoption of the minor has been granted, the court shall terminate its jurisdiction over the minor.

(g) Periodic reviews conducted by the court subsequent to the initial permanency planning hearing shall determine the appropriateness of the placement, the continuing appropriateness and extent of compliance with the permanent plan for the child, the extent of compliance with the case plan, and adequacy of services provided to the child.

(h) Physical custody of a minor by his or her parents or guardians for insubstantial periods during the 12-month period prior to a permanency planning hearing shall not serve to interrupt the running of such periods.

(i) Subsequent permanency planning hearings need not be held if (1) the child has been freed for adoption and placed in the adoptive home identified in the previous permanency planning hearing and is awaiting finalization of the adoption or (2) the child is a ward of a guardian.

(j) Subsequent reviews shall be conducted every six months and be conducted by an administrative review board except when the court requires a court review or a court review is requested by the minor's parents or guardian or by the minor.

(k) Notwithstanding any other provision of law, the application of any person who, as a foster parent, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has substantial emotional ties to the foster parent and removal from the foster parent would be seriously detrimental to the child's well-being.

As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child.

SEC. 16.5. Section 9.5 of this bill incorporates amendments to Section 232 of the Civil Code proposed by both this bill and AB 2703. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, but this bill becomes operative first, (2) each bill amends Section 232 of the Civil Code, and (3) this bill is enacted after AB 2703, in which case Section 232 of the Civil Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of AB 2703, at which time Section 9.5 of this bill shall become operative.

SEC. 17. (a) Section 10 of this bill incorporates amendments to Section 361 of the Welfare and Institutions Code proposed by both this bill and AB 2712. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 361 of the Welfare and Institutions Code, and (3) AB 2703 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2712, in which case Sections 11 and 12 of this bill shall not become operative, and Section 361 of the Welfare and Institutions Code as amended by Section 4 of this bill shall remain operative only until the operative date of AB 2712 at which time Section 10 of this bill shall become operative.

(b) Section 11 of this bill incorporates amendments to Section 361 of the Welfare and Institutions Code proposed by both this bill and AB 2703. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 361 of the Welfare and Institutions Code, (3) AB 2712 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2703 in which case Sections 10 and 12 of this bill shall not become operative, and Section 361 of the Welfare and Institutions Code as amended by Section 4 of this bill shall remain operative only until the operative date of AB 2703, at which time Section 11 of this bill shall become operative.

(c) Section 12 of this bill incorporates amendments to Section 361

of the Welfare and Institutions Code proposed by this bill, AB 2712, and AB 2703. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1985, (2) all three bills amend Section 361 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 2712 and AB 2703, in which case Sections 10 and 11 of this bill shall not become operative and Section 361 of the Welfare and Institutions Code as amended by Section 4 of this act shall remain operative only until the operative dates of AB 2712 and AB 2703, at which time Section 12 of this bill shall become operative.

SEC. 18. Section 13 of this bill incorporates amendments to Section 366 of the Welfare and Institutions Code proposed by both this bill and AB 2703. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 366 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 2703, in which case Section 366 of the Welfare and Institutions Code, as amended by Section 5 of this bill, shall remain operative only until the operative date of AB 2703, at which time Section 13 of this bill shall become operative.

SEC. 19. (a) Section 14 of this bill incorporates amendments to Section 366.25 of the Welfare and Institutions Code proposed by both this bill and AB 2703. It shall only become operative if (1) both bills are enacted and become effective January 1, 1985, (2) each bill amends Section 366.25 of the Welfare and Institutions Code, and (3) AB 2515 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2703, in which case Sections 15 and 16 of this bill shall not become operative, and Section 366.25 of the Welfare and Institutions Code, as amended by Section 6 of this bill shall remain operative only until the operative date of AB 2703, at which time Section 14 of this bill shall become operative.

(b) Section 15 of this bill incorporates amendments to Section 366.25 of the Welfare and Institutions Code proposed by both this bill and AB 2515. It shall only become operative if (1) both bills are enacted and become effective January 1, 1985, (2) each bill amends Section 366.25 of the Welfare and Institutions Code, (3) AB 2703 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2515 in which case Sections 14 and 16 of this bill shall not become operative, and Section 366.25 of the Welfare and Institutions Code, as amended by Section 6 of this bill shall remain operative only until the operative date of AB 2515, at which time Section 15 of this act shall become operative.

(c) Section 16 of this bill incorporates amendments to Section 366.25 of the Welfare and Institutions Code proposed by this bill, AB 2703, and AB 2515. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1985, (2) all three bills amend Section 366.25 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 2703, and AB 2515, in which case Sections 14 and 15 of this bill shall not become operative and Section 366.25 of the Welfare and Institutions Code as amended by

Section 6 of this act shall remain operative only until the operative date of AB 2703 and AB 2515, at which time Section 16 of this bill shall become operative.

SEC. 20. (a) In augmentation of Item 5180-151-001 (a) (1) of Section 2 of Chapter 258 of the Statutes of 1984, there is hereby appropriated from the General Fund to the State Department of Social Services the sum of twelve million dollars ($12,000,000) for allocation by the department for the provision of child welfare services.

(b) In augmentation of Item 5180-141-001 Program 10.20 of Chapter 258 of the Statutes of 1984, there is hereby appropriated from the General Fund to the State Department of Social Services the sum of five million eight hundred sixty-five thousand dollars ($5,865,000) for county administration.

(c) In augmentation of Item 4260-101-001 (a) of Chapter 258 of the Statutes of 1984, there is hereby appropriated from the General Fund to the State Department of Health Services the sum of two million six hundred thirty-five thousand dollars ($2,635,000) for eligibility services.

(d) It is the intent of the Legislature that in providing additional state funds for social services programs counties shall be directed to utilize these funds in a manner which maximizes funding for child welfare services.

SEC. 21. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 22. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 23. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to reduce public expenses for the care, custody, and control of minors who are found not adoptable, and to assure that all of the provisions of this act achieve their maximum implementation, it is necessary that this bill take effect immediately.

CHAPTER 1609

An act to add Section 13519 to, and to add and repeal Title 5 (commencing with Section 13700) to Part 4 of, the Penal Code, relating to training of peace officers, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. The Legislature finds and declares that:

(a) A significant number of homicides, aggravated assaults, and assaults and batteries occur within the home between adult members of families. Research shows that 35 to 40 percent of all assaults are related to domestic violence.

(b) The reported incidence of domestic violence represents only a portion of the total number of incidents of domestic violence.

(c) Twenty-three percent of the deaths of law enforcement officers in the line of duty results from intervention by law enforcement officers in incidents of domestic violence.

(d) Domestic violence is a complex problem affecting families from all social and economic backgrounds.

The purpose of this act is to address domestic violence as a serious crime against society and to assure the victims of domestic violence the maximum protection from abuse which the law and those who enforce the law can provide. It is the intent of the Legislature that the official response to cases of domestic violence shall stress the enforcement of the laws to protect the victim and shall communicate the attitude that violent behavior in the home is criminal behavior and will not be tolerated. It is not the intent of the Legislature to remove a peace officer's individual discretion where that discretion is necessary, nor is it the intent of the Legislature to hold individual peace officers liable.

SEC. 2. Section 13519 is added to the Penal Code, to read:

13519. (a) The commission shall implement by January 1, 1986, a course or courses of instruction for the training of law enforcement officers in California in the handling of domestic violence complaints and also shall develop guidelines for law enforcement response to domestic violence. The course or courses of instruction and the guidelines shall stress enforcement of criminal laws in domestic violence situations, availability of civil remedies and community resources, and protection of the victim. Where appropriate, the training presenters shall include domestic violence experts with expertise in the delivery of direct services to victims of domestic violence, including utilizing the staff of shelters for battered women in the presentation of training.

As used in this section, "law enforcement officer" means any

officer or employee of a local police department or sheriff's office.

(b) The course of basic training for law enforcement officers shall, no later than January 1, 1986, include adequate instruction in the procedures and techniques described below:

(1) The provisions set forth in Title 5 (commencing with Section 13700) relating to response, enforcement of court orders, and data collection.

(2) The legal duties imposed on police officers to make arrests and offer protection and assistance including guidelines for making felony and misdemeanor arrests.

(3) Techniques for handling incidents of domestic violence that minimize the likelihood of injury to the officer and that promote the safety of the victim.

(4) The nature and extent of domestic violence.

(5) The legal rights of, and remedies available to, victims of domestic violence.

(6) The use of an arrest by a private person in a domestic violence situation.

(7) Documentation, report writing, and evidence collection.

(8) Domestic violence diversion as provided in Chapter 2.6 (commencing with Section 1000.6) of Title 5 of Part 2.

(9) Tenancy issues and domestic violence.

(10) The impact on children of law enforcement intervention in domestic violence.

(11) The services and facilities available to victims and batterers.

(12) The use and applications of this code in domestic violence situations.

(13) Verification and enforcement of temporary restraining orders when (A) the suspect is present and (B) the suspect has fled.

(14) Verification and enforcement of stay-away orders.

(15) Cite and release policies.

(16) Emergency assistance to victims and how to assist victims in pursuing criminal justice options.

The guidelines developed by the commission shall also incorporate the foregoing factors.

(c) All law enforcement officers who have received their basic training before January 1, 1986, shall participate in supplementary training on domestic violence subjects, as prescribed and certified by the commission. This training shall be completed no later than January 1, 1989.

Local law enforcement agencies are encouraged to include, as part of their advanced officer training program, periodic updates and training on domestic violence. The commission shall assist where possible.

(d) The course of instruction, the learning and performance objectives, the standards for the training, and the guidelines shall be developed by the commission in consultation with appropriate groups and individuals having an interest and expertise in the field of domestic violence. The groups and individuals shall include, but

shall not be limited to, the following: one representative each from the California Peace Officers' Association, the Peace Officers' Research Association of California, the State Bar of California, the California Women Lawyers' Association, and the State Commission on the Status of Women; two representatives from the commission; two representatives from the California Alliance Against Domestic Violence; two peace officers, recommended by the commission, who are experienced in the provision of domestic violence training; and two domestic violence experts, recommended by the California Alliance Against Domestic Violence, who are experienced in the provision of direct services to victims of domestic violence. At least one of the persons selected shall be a former victim of domestic violence.

The commission, in consultation with these groups and individuals, shall review existing training programs to determine in what ways domestic violence training might be included as a part of ongoing programs.

(e) Forty thousand dollars ($40,000) is appropriated from the Peace Officers Training Fund in augmentation of Item 8120-001-268 of the Budget Act of 1984, to support the travel, per diem, and associated costs for convening the necessary experts.

SEC. 3. Title 5 (commencing with Section 13700) is added to Part 4 of the Penal Code, to read:

TITLE 5. LAW ENFORCEMENT RESPONSE TO DOMESTIC VIOLENCE

CHAPTER 1. GENERAL PROVISIONS

13700. As used in this title:

(a) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself, or another.

(b) "Domestic Violence" is abuse committed against an adult or fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or a person with whom the suspect has had a child or has or has had a dating or engagement relationship.

(c) "Officer" means any law enforcement officer employed by a local police department or sheriff's office, consistent with Section 830.1.

(d) "Victim" means a person who is a victim of domestic violence.

13701. Every law enforcement agency in the this state shall develop, adopt, and implement written policies and standards for officers' response to domestic violence calls by January 1, 1986. These policies shall reflect that domestic violence is alleged criminal conduct. Further, they shall reflect existing policy that a request for assistance in a situation involving domestic violence is the same as any other request for assistance where violence has occurred. These

existing local policies and those developed shall be in writing and shall be available to the public upon request and shall include specific standards for the following:

(a) Felony arrests.

(b) Misdemeanor arrests.

(c) Use of citizen arrests.

(d) Verification and enforcement of temporary restraining orders when (1) the suspect is present and (2) when the suspect has fled.

(e) Verification and enforcement of stay-away orders.

(f) Cite and release policies.

(g) Emergency assistance to victims, such as medical care, transportation to a shelter, and police standbys for removing personal property.

(h) Writing of reports.

(i) Assisting victims in pursuing criminal options, such as giving the victim the report number and directing the victim to the proper investigation unit.

In the development of these policies, each local department is encouraged to consult with domestic violence experts, such as the staff of the local shelter for battered women and their children. Departments may utilize the response guidelines developed by the commission in developing local policies.

CHAPTER 2. RESTRAINING ORDERS

13710. Law enforcement agencies shall maintain a complete and systematic record of all protection orders with respect to domestic violence incidents, restraining orders, and proofs of service in effect. This shall be used to inform law enforcement officers responding to domestic violence calls of the existence, terms, and effective dates of protection orders in effect.

CHAPTER 3. STAY-AWAY ORDERS

13720. A stay-away order may be issued by the court in a criminal case involving domestic violence where, with notice to the defendant and upon an affidavit, a likelihood of harassment of the victim by the defendant has been demonstrated to the satisfaction of the court. Such an order may remain in effect as long as the suspect is under the court's jurisdiction, including any sentence or probationary period.

CHAPTER 4. DATA COLLECTION

13730. (a) Each law enforcement agency shall develop a system, by January 1, 1986 for recording all domestic violence-related calls for assistance made to the department including whether weapons are involved. Monthly, the total number of domestic violence calls received and the numbers of such cases involving weapons shall be

compiled by each law enforcement agency and submitted to the Attorney General.

(b) The Attorney General shall report annually to the Governor, the Legislature, and the public, the total number of domestic violence-related calls received by California law enforcement agencies, the number of cases involving weapons, and a breakdown of calls received by agency, city, and county.

(c) Each law enforcement agency shall develop an incident report form that includes a domestic violence identification code by January 1, 1986. In all incidents of domestic violence, a report shall be written and shall be thus identified on the face of the report as a domestic violence incident.

CHAPTER 5. TERMINATION

13731. This title shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1991, deletes or extends that date.

SEC. 4. The sum of twenty-five thousand dollars ($25,000) is hereby appropriated from the General Fund to the Department of Justice for the purposes of Section 13730 of the Penal Code.

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

CHAPTER 1610

An act to add Section 14132.6 to the Welfare and Institutions Code, relating to mastectomy.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. The Legislature finds and declares that breast reconstruction incident to mastectomy is not cosmetic surgery. It is surgical restoration of a part of the body that has been lost through severe illness by no fault of the patient, and restoration shall, therefore, be considered part of the original mastectomy surgery.

SEC. 2. Section 14132.6 is added to the Welfare and Institutions Code, to read:

14132.6. External prostheses constructed of silicon or other

comparable materials, prosthetic implants, and reconstructive surgery incident to mastectomy shall be deemed medically necessary and shall be covered under the provisions of this chapter. As used in this section, "mastectomy" means the removal of all or part of the breast for medically necessary reasons, as determined by a licensed physician and surgeon.

SEC. 3. The State Director of Health Services shall within 30 days of January 1, 1985, adopt regulations implementing the provisions of this act as emergency regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

CHAPTER 1611

An act to amend Section 306 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 306 of the Welfare and Institutions Code is amended to read:

306. Any social worker in a county welfare department, while acting within the scope of his or her regular duties under the direction of the probation department or juvenile court and pursuant to Section 272, may do all of the following:

(a) Receive and maintain, pending court hearing, temporary custody of a minor who is described in Section 300, and who has been delivered by the probation officer.

(b) Take into temporary custody and maintain temporary custody of, without a warrant, a minor who has been declared a dependent child of the juvenile court under Section 300, and is in need of care.

(c) Take into temporary custody and maintain temporary custody of a minor, without a warrant, when the social worker has reasonable cause to believe that the minor is a person who is described in subdivision (a) or (b) of Section 300.

CHAPTER 1612

An act to add Article 5.3 (commencing with Section 1785) to Chapter 1 of Division 2.5 of the Welfare and Institutions Code, relating to youth.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Article 5.3 (commencing with Section 1785) is added to Chapter 1 of Division 2.5 of the Welfare and Institutions Code, to read:

Article 5.3. Runaway and Homeless Youth

1785. The state advisory group established pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) shall perform the duties imposed by this article.

Staff services shall be provided to the advisory group for the purposes of this article by the Youth Authority, the Office of Criminal Justice Planning, and the California Child, Youth and Family Coalition, an association of community-based agencies.

1786. The advisory group shall do all of the following:

(a) Identify existing programs dealing with runaway and homeless youth.

(b) Develop a directory of service providers.

(c) Study the feasibility of the establishment of a statewide referral system (a "hotline") for runaway and homeless youth.

(d) Compile statistics on runaway and homeless youth.

(e) Identify existing and potential funding sources for services to runaway and homeless youth.

(f) Coordinate and provide advice to administrators of programs relating to runaway and homeless youth on issues relating to federal funding of those programs.

The advisory group shall report to the Governor and the Legislature annually.

The staff provided to the advisory group for the purpose of this article shall seek funding for the activities specified in this section from existing agencies, both federal and state, as well as from private funding sources.

SEC. 2. The Legislature recognizes that the Office of Economic Opportunity possesses discretionary funds in the community services block grant program that can be utilized for the purposes of this act. In this regard, the staff provided to the advisory group pursuant to Section 1785 of the Welfare and Institutions Code shall submit a formal request that a portion of those funds be awarded for the purposes of this act, in order to assist the Office of Economic

Opportunity in the identification of the projects to be funded by that agency, as well as to meet the purposes of this act.

CHAPTER 1613

An act to amend Sections 11107, 11165, and 11170 of the Penal Code, and to amend Section 326 of the Welfare and Institutions Code, relating to child abuse reporting, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 11107 of the Penal Code is amended to read:

11107. Each sheriff or police chief executive shall furnish all of the following information to the Department of Justice on standard forms approved by the department:

Daily reports of those misdemeanors and felonies that are required to be reported by the Attorney General including, but not limited to, forgery, fraud-bunco, bombings, receiving or selling stolen property, safe and commercial burglary, grand theft, child abuse, homicide, threats, and offenses involving lost, stolen, found, pledged, or pawned property.

The reports required by this section shall describe the nature and character of each such crime and note all particular circumstances thereof and include all additional or supplemental data. The Attorney General may also require that the report shall indicate whether or not the submitting agency considers the information to be confidential because it was compiled for the purpose of a criminal investigation of suspected criminal activities. The term "criminal investigation" includes the gathering and maintenance of information pertaining to suspected criminal activity.

SEC. 2. Section 11165 of the Penal Code is amended to read:

11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(1) "Sexual assault" means conduct in violation of one or more of the following sections of this code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647a (child molestation).

(2) "Sexual exploitation" refers to any of the following:

(A) Conduct involving matter depicting a minor engaged in obscene acts in violation of Section 311.2 (preparing, selling, or

distributing obscene matter) or subdivision (a) of Section 311.4 (employment of minor to perform obscene acts).

(B) Any person who knowingly promotes, aids or assists, employs, uses, persuades, induces, or coerces a child, or any parent or guardian of a child under his or her control who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving obscene sexual conduct for commercial purposes.

(C) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, videotape, negative, or slide in which a child is engaged in an act of obscene sexual conduct, except for those activities by law enforcement and prosecution agencies and other persons described in subdivisions (c) and (e) of Section 311.3.

(c) "Neglect" means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.

(1) "Severe neglect" means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. "Severe neglect" also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, as proscribed by subdivision (d), including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(2) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred.

For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16509.1 of the Welfare and Institutions Code or not receiving specified medical treatment for religious reasons, shall not for that reason alone be considered a neglected child. An informed and appropriate medical decision made by a parent or guardian after consultation with a physician or physicians who have examined the minor does not constitute neglect.

(d) "Willful cruelty or unjustifiable punishment of a child" means a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered.

(e) "Corporal punishment or injury" means a situation where any

person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition.

(f) "Abuse in out-of-home care" means a situation of physical injury on a child which is inflicted by other than accidental means, or of sexual abuse or neglect or the willful cruelty or unjustifiable punishment of a child, as defined in this article, where the person responsible for the child's welfare is a foster parent or the administrator or an employee of a public or private residential home, school, or other institution or agency.

(g) "Child abuse" means a physical injury which is inflicted by other than accidental means on a child by another person. "Child abuse" also means the sexual abuse of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). "Child abuse" also means the neglect of a child or abuse in out-of-home care, as defined in this article.

(h) "Child care custodian" means a teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; a licensee, an administrator, or an employee of a community care facility licensed to care for children; headstart teacher; a licensing worker or licensing evaluator; public assistance worker; employee of a child care institution, including, but not limited to, foster parents, group home personnel and personnel of residential care facilities; a social worker or a probation officer.

(i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.

(j) "Nonmedical practitioner" means a state or county public health employee who treats a minor for venereal disease or any other condition; a coroner; a paramedic; a marriage, family, or child counselor; or a religious practitioner who diagnoses, examines, or treats children.

(k) "Child protective agency" means a police or sheriff's department, a county probation department, or a county welfare department.

(*l*) "Commercial film and photographic print processor" means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.

SEC. 2.2. Section 11165 of the Penal Code is amended to read:

11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual abuse" means sexual assault or sexual exploitation as

defined by the following:

(1) "Sexual assault" means conduct in violation of one or more of the following sections of this code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647a (child molestation).

(2) "Sexual exploitation" refers to any of the following:

(A) Conduct involving matter depicting a minor engaged in obscene acts in violation of Section 311.2 (preparing, selling, or distributing obscene matter) or subdivision (a) of Section 311.4 (employment of minor to perform obscene acts).

(B) Any person who knowingly promotes, aids or assists, employs, uses, persuades, induces, or coerces a child, or any parent or guardian of a child under his or her control who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving obscene sexual conduct for commercial purposes.

(C) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, videotape, negative, or slide in which a child is engaged in an act of obscene sexual conduct, except for those activities by law enforcement and prosecution agencies and other persons described in subdivisions (c) and (e) of Section 311.3.

(c) "Neglect" means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.

(1) "Severe neglect" means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. "Severe neglect" also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, as proscribed by subdivision (d), including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(2) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred.

For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16509.1 of the Welfare and Institutions Code or not receiving specified medical treatment for religious reasons, shall not for that reason alone be considered a neglected child. An informed and appropriate medical decision

made by a parent or guardian after consultation with a physician or physicians who have examined the minor does not constitute neglect.

(d) "Willful cruelty or unjustifiable punishment of a child" means a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered.

(e) "Corporal punishment or injury" means a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition.

(f) "Abuse in out-of-home care" means a situation of physical injury on a child which is inflicted by other than accidental means, or of sexual abuse or neglect or the willful cruelty or unjustifiable punishment of a child, as defined in this article, where the person responsible for the child's welfare is a foster parent or the administrator or an employee of a public or private residential home, school, or other institution or agency.

(g) "Child abuse" means a physical injury which is inflicted by other than accidental means on a child by another person. "Child abuse" also means the sexual abuse of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). "Child abuse" also means the neglect of a child or abuse in out-of-home care, as defined in this article.

(h) "Child care custodian" means a teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; a licensee, an administrator, or an employee of a community care facility licensed to care for children; headstart teacher; a licensing worker or licensing evaluator; public assistance worker; employee of a child care institution, including, but not limited to, foster parents, group home personnel and personnel of residential care facilities; a social worker or a probation officer.

(i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, or a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.

(j) "Nonmedical practitioner" means a state or county public health employee who treats a minor for venereal disease or any other condition; a coroner; a paramedic; a marriage, family, or child counselor; or a religious practitioner who diagnoses, examines, or treats children.

(k) "Child protective agency" means a police or sheriff's

department, a county probation department, or a county welfare department.

(*l*) "Commercial film and photographic print processor" means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.

SEC. 2.4. Section 11165 of the Penal Code is amended to read:

11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(1) "Sexual assault" means conduct in violation of one or more of the following sections of this code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647a (child molestation).

(2) "Sexual exploitation" refers to any of the following:

(A) Conduct involving matter depicting a minor engaged in obscene acts in violation of Section 311.2 (preparing, selling, or distributing obscene matter) or subdivision (a) of Section 311.4 (employment of minor to perform obscene acts).

(B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any parent or guardian of a child under his or her control who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving obscene sexual conduct for commercial purposes.

(C) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, videotape, negative, or slide in which a child is engaged in an act of obscene sexual conduct, except for those activities by law enforcement and prosecution agencies and other persons described in subdivisions (c) and (e) of Section 311.3.

(c) "Neglect" means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.

(1) "Severe neglect" means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. "Severe neglect" also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation

such that his or her person or health is endangered, as proscribed by subdivision (d), including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(2) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred.

For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16509.1 of the Welfare and Institutions Code or not receiving specified medical treatment for religious reasons, shall not for that reason alone be considered a neglected child. An informed and appropriate medical decision made by a parent or guardian after consultation with a physician or physicians who have examined the minor shall not constitute neglect.

(d) "Willful cruelty or unjustifiable punishment of a child" means a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered.

(e) "Corporal punishment or injury" means a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition.

(f) "Abuse in out-of-home care" means a situation of physical injury on a child which is inflicted by other than accidental means, or of sexual abuse or neglect or the willful cruelty or unjustifiable punishment of a child, as defined in this article, where the person responsible for the child's welfare is a foster parent or the administrator or an employee of a public or private residential home, school, or other institution or agency.

(g) "Child abuse" means a physical injury which is inflicted by other than accidental means on a child by another person. "Child abuse" also means the sexual abuse of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). "Child abuse" also means the neglect of a child or abuse in out-of-home care, as defined in this article.

(h) "Child care custodian" means a teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; a licensee, an administrator, or an employee of a community care facility licensed to care for children; headstart teacher; a licensing worker or licensing evaluator; public assistance worker; employee of a child care institution, including, but not limited to, foster parents, group home personnel and personnel of residential care facilities; a social worker or a probation officer.

(i) "Medical practitioner" means a physician and surgeon,

psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, or any emergency medical technician I or II, or paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(j) "Nonmedical practitioner" means a state or county public health employee who treats a minor for venereal disease or any other condition; a coroner; a marriage, family, or child counselor; or a religious practitioner who diagnoses, examines, or treats children.

(k) "Child protective agency" means a police or sheriff's department, a county probation department, or a county welfare department.

(*l*) "Commercial film and photographic print processor" means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.

SEC. 2.6. Section 11165 of the Penal Code is amended to read:

11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(1) "Sexual assault" means conduct in violation of one or more of the following sections of this code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647a (child molestation).

(2) "Sexual exploitation" refers to any of the following:

(A) Conduct involving matter depicting a minor engaged in obscene acts in violation of Section 311.2 (preparing, selling, or distributing obscene matter) or subdivision (a) of Section 311.4 (employment of minor to perform obscene acts).

(B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any parent or guardian of a child under his or her control who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving obscene sexual conduct for commercial purposes.

(C) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, videotape, negative, or slide in which a child is engaged in an act of obscene sexual conduct, except for those activities by law enforcement and prosecution agencies and other persons described

in subdivisions (c) and (e) of Section 311.3.

(c) "Neglect" means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.

(1) "Severe neglect" means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. "Severe neglect" also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, as proscribed by subdivision (d), including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(2) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred.

For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16509.1 of the Welfare and Institutions Code or not receiving specified medical treatment for religious reasons, shall not for that reason alone be considered a neglected child. An informed and appropriate medical decision made by parent or guardian after consultation with a physician or physicians who have examined the minor shall not constitute neglect.

(d) "Willful cruelty or unjustifiable punishment of a child" means a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered.

(e) "Corporal punishment or injury" means a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition.

(f) "Abuse in out-of-home care" means a situation of physical injury on a child which is inflicted by other than accidental means, or of sexual abuse or neglect or the willful cruelty or unjustifiable punishment of a child, as defined in this article, where the person responsible for the child's welfare is a foster parent or the administrator or an employee of a public or private residential home, school, or other institution or agency.

(g) "Child abuse" means a physical injury which is inflicted by other than accidental means on a child by another person. "Child abuse" also means the sexual abuse of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). "Child abuse" also means the neglect of a child or abuse in

out-of-home care, as defined in this article.

(h) "Child care custodian" means a teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; a licensee, an administrator, or an employee of a community care facility licensed to care for children; headstart teacher; a licensing worker or licensing evaluator; public assistance worker; employee of a child care institution including, but not limited to, foster parents, group home personnel and personnel of residential care facilities; a social worker or a probation officer.

(i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, or a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.

(j) "Nonmedical practitioner" means a state or county public health employee who treats a minor for venereal disease or any other condition; a coroner; a marriage, family, or child counselor; or a religious practitioner who diagnoses, examines, or treats children.

(k) "Child protective agency" means a police or sheriff's department, a county probation department, or a county welfare department.

(*l*) "Commercial film and photographic print processor" means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.

SEC. 3. Section 11170 of the Penal Code is amended to read:

11170. (a) The Department of Justice shall maintain an index of all preliminary reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(b) The Department of Justice shall immediately notify a child protective agency which submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) which is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 318 of the Welfare and Institutions Code, if he or she is

treating or investigating a case of known or suspected child abuse.

When a report is made pursuant to subdivision (a) of Section 11166, the investigating agency shall, upon completion of the investigation or after there has been a final disposition in the matter, inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

SEC. 4. Section 326 of the Welfare and Institutions Code is amended to read:

326. For the purposes of Child Abuse Prevention and Treatment Act grants to states (Public Law 93-247), in all cases in which there is filed a petition based upon alleged neglect or abuse of the minor, or in which a prosecution is initiated under the Penal Code arising from neglect or abuse of the minor, the probation officer or a social worker who files a petition under this chapter shall be the guardian ad litem to represent the interests of the minor in proceedings under this chapter, unless the court shall appoint another adult as guardian ad litem. However, the guardian ad litem shall not be the attorney responsible for presenting evidence alleging child abuse or neglect in judicial proceedings. No bond shall be required from any guardian ad litem acting under this section.

SEC. 5. (a) The Legislature finds and declares that child abuse is a serious problem, as evidenced by the fact that the number of cases reported to the Attorney General each year pursuant to Section 11170 of the Penal Code has increased over 900 percent from 1974 through 1983. One of the major problems in treating and preventing child abuse is the need to quickly and accurately identify cases, which frequently involve family members or other individuals in close relationship to the victim.

(b) The Child Abuse Central Registry provided by Section 11170 of the Penal Code is an important source of information assisting local law enforcement officials and child protective agencies in identifying, apprehending, and prosecuting child abusers.

(c) The Department of Justice shall automate its Child Abuse Central Registry and shall develop criteria to periodically purge registry entries during the automation process.

SEC. 6. The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund to the Department of Justice for the purpose of automating the Child Abuse Central Registry pursuant to Section 5 of this act.

SEC. 6.5. (a) Section 2.2 of this bill incorporates amendments to Section 11165 of the Penal Code proposed by both this bill and AB 2702. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, but this bill becomes operative first, (2) each bill amends Section 11165 of the Penal Code, and (3) this bill is enacted after AB 2702, in which case Section 11165 of the Penal Code, as amended by Section 2 of this bill, shall remain operative only until the operative date of AB 2702, at which time Section 2.2 of this bill shall become operative, in which case Sections

2.4 and 2.6 of this bill shall not become operative.

(b) Section 2.4 of this bill incorporates amendments to Section 11165 of the Penal Code proposed by both this bill and SB 1124. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, but this bill becomes operative first, (2) each bill amends Section 11165 of the Penal Code, and (3) this bill is enacted after SB 1124, in which case Section 11165 of the Penal Code, as amended by Section 2 of this bill, shall remain operative only until the operative date of SB 1124, at which time Section 2.4 of this bill shall become operative, in which case Sections 2.2 and 2.6 of this bill shall not become operative.

(c) Section 2.6 of this bill incorporates amendments to Section 11165 of the Penal Code proposed by this bill, AB 2702, and SB 1124. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1985, but this bill becomes operative first, (2) all three bills amend Section 11165 of the Penal Code, and (3) this bill is enacted after AB 2702 and SB 1124, in which case Section 11165 of the Penal Code, as amended by Section 2 of this bill, shall remain operative only until the operative date of AB 2702 and SB 1124, at which time Section 2.6 of this bill shall become operative, in which case Sections 2.2 and 2.4 shall not become operative.

SEC. 7. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 8. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to automate the Child Abuse Central Registry as soon as possible, it is necessary that this act go into immediate effect.

CHAPTER 1614

An act relating to youth, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. The Legislature finds and declares that the problem of runaway children is one of major significance, causing great suffering both for parents, who often do not know whether their child is alive, as well as for the runaways themselves, as they often are young, impressionable children, who are frequently the victims of crime, including forced prostitution, drug abuse, and death.

SEC. 2. There is, administered by state government, the Youth Emergency Telephone Referral Project, in the Office of Criminal Justice Planning. The Office of Criminal Justice Planning may directly implement the project as specified in subdivisions (a) to (c), inclusive, of Section 3 or may contract for implementation of the project with any California nonprofit corporation which, in the judgment of the Office of Criminal Justice Planning, is capable of implementing the project substantially as specified in subdivisions (a) to (c), inclusive, of Section 3. If the Office of Criminal Justice Planning elects to contract for implementation of the project, it shall supervise the contracting corporation, as needed, to insure contract compliance. If the Office of Criminal Justice Planning elects to contract for implementation of the project, it shall make available to the contracting corporation at least 90 percent of the funds appropriated in this act, but may retain up to 10 percent of the funds so appropriated for administrative costs.

SEC. 3. (a) The purpose of the project shall be to serve as a free, nonthreatening, telephone referral service for runaways, directing them to available resources, including shelter, meals, clothing, counseling, and other services necessary for their well-being, and to serve as a message center for runaways who wish to communicate with their parents.

To this end, the project shall be headquartered in Sacramento either in facilities owned or leased by the state; if the project is quartered in leased space, the rate paid for that space shall not exceed the least expensive rate currently paid for leased facilities by the state.

(b) The Office of Criminal Justice Planning shall, in conjunction with providers of telephone service, establish and implement a statewide toll-free number to carry out the purposes of this act. The Office of Criminal Justice Planning shall utilize the provider of telephone services that, in their opinion, provides the most efficient services at the lowest cost.

(c) The Office of Criminal Justice Planning shall publicize the existence of the referral service through the print and electronic media, including, but not limited to utilization of television and radio public service announcements, brochures, newspaper announcements, posters, bumper stickers, and agreements for the

provision of publicity, free of charge, by private entities.

The Office of Criminal Justice Planning also shall cooperate with other services of this kind throughout the United States or existing local services in California, with the goal of aiding, rather than preempting, those local services.

SEC. 4. The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund to the Office of Criminal Justice Planning for the purposes of this act. The office of Criminal Justice Planning or the contracting corporation shall seek any federal and private funds available for the purposes of this act; the funds available pursuant to the appropriation made by this section shall be reduced by the amount of any federal or private funds received for the purposes of this act.

CHAPTER 1615

An act to amend Sections 1502, 1505, 1536, 1560, 1566.6, 1597.52, 1597.53, 1597.54, 1597.55, 1597.57, 1597.60, 1597.61, and 1597.621 of, to amend the heading of Chapter 3.6 (commencing with Section 1597.30) of Division 2 of, to amend and renumber Section 1597.64 of, and the heading of Chapter 3.5 (commencing with Section 1570) of Division 2 of, to amend and renumber Section 1597.51 of, to add Chapters 3.4 (commencing with Section 1596.70) and 3.5 (commencing with Section 1596.90) to Division 2 of, to repeal Sections 1522.1 and 1597.35 of, and to repeal Article 2.5 (commencing with Section 1527) of Chapter 3 of Division 2 of, the Health and Safety Code, relating to community care facilities, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 1502 of the Health and Safety Code is amended to read:

1502. As used in this chapter:

(a) "Community care facility" means any facility, place, or building which is maintained and operated to provide nonmedical residential care, adult day care, or homefinding agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, or incompetent persons, and includes the following:

(1) "Residential facility" which means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) "Residential care facility for the elderly" which means a group housing arrangement chosen voluntarily by residents who are over 62 years of age and who are provided varying levels of supportive services or care, as agreed upon at the time of admission, based upon their varying needs.

(3) "Adult day care facility" which means any facility which provides nonmedical care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

(4) "Homefinding agency" which means any individual or organization engaged in finding homes or other places for placement of persons of any age for temporary or permanent care or adoption.

(5) "Foster family home" which means any residential facility providing 24-hour care for six or fewer foster children which is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. Such placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian.

(6) "Small family home" means any residential facility providing 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

(b) "Department" or "state department" means the State Department of Social Services.

(c) "Director" means the Director of Social Services.

SEC. 1.5. Section 1502 of the Health and Safety Code is amended to read:

1502. As used in this chapter:

(a) "Community care facility" means any facility, place, or building which is maintained and operated to provide nonmedical residential care, adult day care, or homefinding agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, or incompetent persons, and includes the following:

(1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) "Residential care facility for the elderly" means a group housing arrangement chosen voluntarily by residents who are over 62 years of age and who are provided varying levels of supportive

services or care, as agreed upon at the time of admission, based upon their varying needs.

(3) "Adult day care facility" means any facility which provides nonmedical care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

(4) "Homefinding agency" means any individual or organization engaged in finding homes or other places for placement of persons of any age for temporary or permanent care or adoption.

(5) "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children which is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. Such placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian.

(6) "Small family home" means any residential facility providing 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities.

(7) "Social rehabilitation facility" means any residential facility which provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to Section 5458.1.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

(b) "Department" or "state department" means the State Department of Social Services.

(c) "Director" means the Director of Social Services.

SEC. 2. Section 1505 of the Health and Safety Code is amended to read:

1505. The provisions of this chapter do not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.

(d) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 727 of the Welfare and Institutions Code.

(e) Any child day care facility, as defined in Section 1596.75.

(f) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend

upon prayer or spiritual means for healing in the practice of the religion of such church or denomination.

(g) Any school dormitory or similar facility determined by the department.

(h) Any house, institution, hotel, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the director.

(i) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.

(j) Any cooperative arrangement between parents for the care of their children by one or more of the parents where no payment for the care is involved.

(k) Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons from only one family by a close friend of the parent, guardian, or conservator, if such arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the state department.

(*l*) Any similar facility determined by the director.

This section shall become operative July 1, 1984.

SEC. 2.1. Section 1505 of the Health and Safety Code is amended to read:

1505. The provisions of this chapter shall not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.

(d) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 727 of the Welfare and Institutions Code.

(e) Any child day care facility, as defined in Section 1596.75.

(f) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or denomination.

(g) Any school dormitory or similar facility determined by the department.

(h) Any house, institution, hotel, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the director.

(i) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.

(j) Any alcoholism recovery facility as defined by Section 1834.11.

(k) Any cooperative arrangement between parents for the care of

their children by one or more of the parents where no payment for the care is involved.

(*l*) Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons from only one family by a close friend of the parent, guardian, or conservator, if such arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the state department.

(m) Any similar facility determined by the director.

This section shall become operative July 1, 1984.

SEC. 2.2. Section 1505 of the Health and Safety Code is amended to read:

1505. This chapter does not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.

(d) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 727 of the Welfare and Institutions Code.

(e) Any child day care facility, as defined in Section 1596.75.

(f) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of the church or denomination.

(g) Any school dormitory or similar facility determined by the department.

(h) Any house, institution, hotel, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the director.

(i) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.

(j) Any cooperative arrangement between parents for the care of their children by one or more of the parents where no payment for the care is involved.

(k) Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons from only one family by a close friend of the parent, guardian, or conservator, if the arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the state department.

(*l*) Any public recreation program. "Public recreation program" means a program operated by the state, city, county, special district, school district, community college district, chartered city, or chartered city and county which meets either of the following criteria:

(A) The program is provided for children over the age of four

years and nine months and is in operation for either of the following periods:

(i) For under 13 hours per week.

(ii) For more than 12 hours per week and is for 12 weeks or less per year in duration.

(B) The program is provided to children under the age of four years and nine months with sessions which run 12 hours per week or less and are 12 weeks or less in duration.

(m) Any similar facility determined by the director.

SEC. 2.3. Section 1505 of the Health and Safety Code is amended to read:

1505. This chapter does not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.

(d) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 727 of the Welfare and Institutions Code.

(e) Any child day care facility, as defined in Section 1596.75.

(f) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of the church or denomination.

(g) Any school dormitory or similar facility determined by the department.

(h) Any house, institution, hotel, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the director.

(i) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.

(j) Any alcoholism recovery facility as defined by Section 11834.11.

(k) Any cooperative arrangement between parents for the care of their children by one or more of the parents where no payment for the care is involved.

(*l*) Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons from only one family by a close friend of the parent, guardian, or conservator, if the arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the state department.

(m) Any public recreation program. "Public recreation program" means a program operated by the state, city, county, special district, school district, community college district, chartered city, or chartered city and county which meets either of the following criteria:

(A) The program is provided for children over the age of four years and nine months and is in operation for either of the following periods:

(i) For under 13 hours per week.

(ii) For more than 12 hours per week and is for 12 weeks or less per year in duration.

(B) The program is provided to children under the age of four years and nine months with sessions which run 12 hours per week or less and are 12 weeks or less in duration.

(n) Any similar facility determined by the director.

SEC. 3. Section 1522.1 of the Health and Safety Code is repealed.

SEC. 4. Article 2.5 (commencing with Section 1527) of Chapter 3 of Division 2 of the Health and Safety Code is repealed.

SEC. 5. Section 1536 of the Health and Safety Code is amended to read:

1536. At least annually, the director shall publish and make available to interested persons a list or lists covering all licensed community care facilities, other than foster family homes providing 24-hour care for six or fewer foster children, the services for which each such facility has been licensed or issued a special permit, and the evaluation rating of each such community care facility, as determined pursuant to Section 1535. A list or lists containing changes in facility ratings shall be published and made available periodically as determined by the director.

To encourage the recruitment of foster family homes, protect their personal privacy, and to preserve the security and confidentiality of the placements in the homes, the names, addresses, and other identifying information of facilities licensed as foster family homes providing 24-hour care for six or fewer children shall be considered personal information for purposes of the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). Such information shall not be disclosed by any state or local agency pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) except as necessary for administering the licensing program, facilitating the placement of children in such facilities, and providing names and addresses only to bona fide professional foster parent organizations upon request.

SEC. 6. Section 1560 of the Health and Safety Code is amended to read:

1560. (a) The director shall require as a condition precedent to the issuance, or renewal, of any license or special permit for a community care facility, if the licensee or holder of a special permit handles or will handle any money of a person within the community care facility, that the applicant for the license or special permit or the renewal of the license or special permit file or have on file with the state department a bond issued by a surety company admitted to do business in this state in a sum to be fixed by the state department based upon the magnitude of the operations of the applicant, but

which sum shall not be less than one thousand dollars ($1,000), running to the State of California and conditioned upon his or her faithful and honest handling of the money of persons within the facility.

(b) The failure of any licensee under this chapter to maintain on file with the state department a bond in the amount prescribed by the director or who embezzles the trust funds of a person in the facility shall constitute cause for the revocation of the license.

(c) The provisions of this section shall not apply if the licensee meets both of the following requirements:

(1) The licensee operates a community care facility which is licensed to care for children including, but not limited to, a foster family home.

(2) The licensee handles moneys of persons within the community care facility in amounts less than fifty dollars ($50) per person and less than five hundred dollars ($500) for all persons in any month.

SEC. 7. Section 1566.6 of the Health and Safety Code is amended to read:

1566.6. The department shall annually prepare, with a quarterly update commencing July 1, 1979, specifying newly licensed facilities, a list or lists of all licensed community care facilities in the state, other than foster family homes, which shall include the information required by Section 1536 and shall additionally specify as to each such facility the licensed capacity of the facility and whether it is licensed by the state department or by another public agency pursuant to Section 1511. Compliance with this section shall also constitute compliance with Section 1536.

SEC. 8. The heading of Chapter 3.5 (commencing with Section 1570) of Division 2 of the Health and Safety Code is amended and renumbered to read:

CHAPTER 3.2. CALIFORNIA ADULT DAY HEALTH CARE ACT

SEC. 9. Chapter 3.4 (commencing with Section 1596.70) is added to Division 2 of the Health and Safety Code, to read:

CHAPTER 3.4. CALIFORNIA CHILD DAY CARE ACT

Article 1. General Provisions and Definitions

1596.70. This chapter, (commencing with Section 1596.90), and Chapter 3.6 (commencing with 1597.30) may be cited as the California Child Day Care Facilities Act.

1596.71. The provisions of this chapter apply to Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with Section 1597.30).

1596.72. The Legislature finds all of the following:

(a) That day care facilities for children can contribute positively

to a child's emotional, cognitive, and educational development.

(b) That it is the intent of this state to provide a comprehensive, quality system for licensing day care facilities for children to insure a quality day care environment.

(c) That this system of licensure requires a special understanding of the unique characteristics and needs of the children served by day care facilities.

(d) That it is the intent of the Legislature to establish within the State Department of Social Services an organizational structure to separate licensing of day care facilities for children from those facility types administered under Chapter 3 (commencing with Section 1500).

(e) That good quality child day care services are an essential service for working parents.

1596.73. The purposes of this chapter are to:

(a) Streamline the administration of child care licensing and thereby increase the efficiency and effectiveness of this system.

(b) Encourage the development of licensing staff with knowledge and understanding of children and child care needs.

(c) Provide providers of child care with technical assistance about licensing requirements.

(d) Enhance consumer awareness of licensing requirements and the benefits of licensed child care.

(e) Recognize that affordable, quality licensed child care is critical to the well-being of parents and children in this state.

1596.74. Unless the context otherwise requires, the definitions contained in this chapter govern the construction of this chapter and Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with Section 1597.30).

1596.75. "Child" means a person who is under 18 years of age who is being provided care and supervision in a child day care facility, except where otherwise specified in this act.

1596.750. "Child day care facility" means a facility which provides nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. Child day care facility includes day care centers and family day care homes.

1596.76. "Day care center" means any child day care facility other than a family day care home, and includes infant centers, preschools, and extended day care facilities.

1596.77. "Department" means the State Department of Social Services.

1596.770. "Director" means the Director of Social Services.

1596.78. "Family day care home" means a home which regularly provides care, protection, and supervision of 12 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away, and includes the following:

(1) "Large family day care home" which means a home which

provides family day care to 7 to 12 children, inclusive, including children who reside at the home, as defined in regulations.

(2) "Small family day care home" which means a home which provides family day care to six or fewer children, including children who reside at the home, as defined in regulations.

1596.79. "Person" means a person as defined by Section 19, the state, and any county.

1596.790. "Planning agency" means the agency designated pursuant to Section 65100 of the Government Code.

1596.791. "Provider" means a person who operates a child day care facility and is licensed pursuant to Chapter 3.5 (commencing with Section 1596.90) or 3.6 (commencing with Section 1597.30).

1596.792. This chapter and Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with Section 1597.30) do not apply to any of the following:

(a) Any health facilities, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any community care facility, as defined by Section 1502.

(d) Any family day care home providing care for the children of only one family in addition to the operator's own children.

(e) Any house, institution, hotel, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the department.

(f) Any cooperative arrangement between parents for the care of their children by one or more of the parents where no payment for the care is involved.

(g) Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons from only one family by a friend of the parent, guardian, or conservator, if the arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the department.

(h) Any similar facility determined by the department.

Article 2. Administration of Child Day Care Licensing

1596.80. No person, firm, partnership, association, or corporation shall operate, establish, manage, conduct, or maintain a child day care facility in this state without first obtaining a license therefor as provided in this act.

1596.805. No person, firm, partnership, association, or corporation shall provide specialized services within a child day care facility in this state without first obtaining a special permit as provided in this act.

1596.81. (a) The department shall adopt, amend, or repeal in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code such rules and regulations as may be necessary to carry out this chapter and

Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with Section 1597.30).

(b) Licensing requirements adopted pursuant to Section 1530 shall only continue to be applicable to child day care centers, and requirements adopted pursuant to Section 1597.51 shall continue to be applicable to family day care homes, until the department adopts regulations pursuant to this chapter. The department shall adopt regulations by July 1, 1985.

1596.82. The department may contract for state, county, or other public agencies to assume specified licensing, approval, or consultation responsibilities. If an agency also provides licensing, approval, or consultation responsibilities for the purpose of administering Chapter 3 (commencing with Section 1500), the agency shall maintain licensing staff positions distinct from those positions responsible for administering Chapter 3 (commencing with Section 1500). The department shall reimburse agencies for services performed pursuant to this section which shall not exceed actual cost.

1596.83. The department and any local agency with which it contracts for the licensing of child day care facilities shall grant or deny an application for license within 30 days after receipt of all appropriate licensing application materials, as determined by the department, and after a site visit has been completed. The site visit shall be completed within 30 days after the receipt of all appropriate licensing documents.

1596.84. The department may issue provisional licenses to operate day care facilities for facilities which the director determines are in substantial compliance with the provisions of the licensure requirements and the rules and regulations adopted pursuant thereto, provided, that no life safety risks are involved, as determined by the director. In determining whether any life safety risks are involved, the director shall require completion of all applicable fire clearances and criminal record clearances as otherwise required by the department's rules and regulations. The provisional license shall expire six months from the date of issuance, or at such earlier time as the director may determine. However, the director may extend the term of a provisional license for an additional six months time, if it is determined that more than six months will be required to achieve full compliance with licensing standards due to circumstances beyond the control of the applicant, provided all other requirements for a license have been met.

1596.85. No license or special permit issued pursuant to Chapters 3.5 (commencing with Section 15967.90) and 3.6 (commencing with Section 1597.30) shall have any property value for sale or exchange purposes and no person, including any owner, agent, or broker, shall sell or exchange the license or special permit for any commercial purpose.

1596.851. If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant previously was issued a license

under this chapter or under Chapter 1 (commencing with Section 1200) or Chapter 2 (commencing with Section 1250) or Chapter 3 (commencing with Section 1500) and that the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years shall have elapsed from the date of the revocation. Cessation of review shall not constitute a denial of the application.

1596.852. Any duly authorized officer, employee, or agent of the department may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, any provision of this chapter.

1596.853. (a) Any person may request an inspection of any child day care facility in accordance with this chapter by transmitting to the department notice of an alleged violation of applicable requirements prescribed by the statutes or regulations of this state. A complaint may be made either orally or in writing.

(b) The substance of the complaint shall be provided to the licensee no earlier than at the time of the inspection. Unless the complainant specifically requests otherwise, neither the substance of the complaint provided the licensee nor any copy of the complaint or any record published, released, or otherwise made available to the licensee shall disclose the name of any person mentioned in the complaint, except the name of any duly authorized officer, employee, or agent of the department conducting the investigation or inspection pursuant to this chapter.

(c) Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a child day care facility, the department shall make a preliminary review and, unless the department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, the department shall make an onsite inspection within 10 days after receiving the complaint. In either event, the complainant shall be promptly informed of the department's proposed course of action.

(d) Upon receipt of a complaint alleging denial of a statutory right of access to a child day care facility, the department shall review the complaint. The complainant shall be notified promptly of the department's proposed course of action.

1596.854. The withdrawal of an application for a license or a special permit after it has been filed with the department shall not, unless the department consents in writing to the withdrawal, deprive the department of its authority to institute or continue a proceeding against the applicant for the denial of the license or a special permit upon any ground provided by law or to enter an order denying the license or special permit upon any such ground.

The suspension, expiration, or forfeiture by operation of law of a license or a special permit issued by the department, or its suspension, forfeiture, or cancellation by order of the department or

by order of a court of law, or its surrender without the written consent of the department, shall not deprive the department of its authority to institute or continue a disciplinary proceeding against the licensee or holder of a special permit upon any ground provided by law or to enter an order suspending or revoking the license or special permit or otherwise taking disciplinary action against the licensee or holder of a special permit on any such ground.

1596.855. Upon initial licensure, child day care facilities shall be provided a printed copy of all applicable regulations by the department without charge and at any other time when revisions in the regulations are reprinted for distribution.

1596.856. If the department finds that the applicant is not in compliance with this act or the regulations promulgated under this act, the department shall deny the applicant a license or license renewal.

1596.86. (a) The director shall annually publish and make available to interested persons a list or lists covering all licensed day care facilites, other than small family day care homes, and the services for which each facility has been licensed or issued a special permit. The lists shall also specify the licensed capacity of the facility and whether it is licensed by the department or by another public agency.

(b) To encourage the recruitment of small family day care homes and protect their personal privacy, the department shall promulgate regulations to prevent the use of lists containing names, addresses and other identifying information of facilities identified as small family day care homes, except as necessary for administering the licensing program, facilitating the placement of children in these facilities, and providing the names and addresses only to resource and referral agencies, family day care organizations, or parents seeking local day care services, upon request.

1596.87. The department shall institute a staff development and training program within the organization structure to develop among staff the knowledge and understanding of children and child care necessary to successfully carry out this chapter. Specifically, the department shall do all of the following:

(a) Provide staff with 36 hours of training per year which reflect the unique needs of children.

(b) Find ways to encourage applications from individuals with child care provider experience or educational backgrounds applicable to the provision of child care.

(c) Provide new staff who have earned fewer than 16 semester units in child development or early childhood education from an accredited college at least 40 hours of preservice training in child development or early childhood education during the first 90 days of their employment.

(d) Submit for approval to the advisory committee established in Section 8286 of the Education Code a plan for meeting the provisions of subdivisions (a) and (c).

1596.871. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with child day care facility clients may pose a risk to the children's health and safety.

(a) Before issuing a license or special permit to any person to operate or manage a day care facility center, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation. No fee shall be charged by the Department of Justice or the department for the fingerprinting of an applicant who will serve six or fewer children for a license or for obtaining a criminal record of such an applicant pursuant to this section. If it is found that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (e).

(b) In addition to the applicant, the provisions of this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff.

(2) Any person, other than a child, residing in the facility.

(3) Any person who provides assistance to the children in care in dressing, grooming, bathing, or personal hygiene.

(4) Any staff person or employee who has frequent and routine contact with the children. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to place or supplement staff in providing direct care and supervision of children in care. In determining who has routine contact, staff and employees under direct onsite supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with clients shall be exempt. At the time of employment, all staff and employees required to be fingerprinted shall sign a statement regarding prior criminal convictions and be fingerprinted. Fingerprints shall be submitted to the licensing agency within 20 days following employment.

(5) If the applicant is a firm, partnership, association, or corporation, the chief executive officer, other person serving in like capacity, or a person designated by the chief executive officer as responsible for the operation of the facility.

(6) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(7) This section does not apply to adult volunteers or adult staff employed by the applicant on an intermittent basis for less than 10 days per month, provided that these adults are under constant

supervision by adults who meet the requirements of this section.

(8) The provisions of this section do not apply to employees of school districts operating day care centers under contract with the State Department of Education.

(c) Subsequent to initial licensure, any person specified in subdiviison (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a child day care facility be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal conviction. The licensee shall submit these fingerprints to the licensing agency not later than 20 days following employment, residence, or initial presence in the child day care facility. Except for persons specified in paragraph (2) or subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the department, on the basis of fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted for an offense specified in Section 273a or 273d of the Penal Code, or has been convicted of a felony, the Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility. The department may subsequently grant an exemption pursuant to subdivision (e). If the conviction was for another crime except a minor traffic violation, the licensee shall, upon notification by the Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the child day care facility, or (2) seek an exemption pursuant to subdivision (d). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(d) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

(e) After review of the record, the director may grant an

exemption from disqualification for a license or special permit pursuant to subdivision (a), or for employment, residence, or presence in a child day care facility as specified in subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in paragraph (1) of Section 273a or 273d of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(f) Immediately upon the denial of any application for a license or for a special permit, the department shall notify the applicant in writing. Within 15 days after the department mails the notice, the applicant may present his or her written petition for a hearing to the department. Upon receipt by the department of the petition, the petition shall be set for hearing. The hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department has all the powers granted in that chapter.

(g) For the purposes of compliance with this section, the department may designate a child care resource and referral agency or other agency in each county to maintain a file of criminal records clearances, as defined in subdivison (a), for individuals employed on a temporary basis by applicants in that county.

(h) The department shall provide written confirmation to applicants within 30 days after receipt of materials submitted for compliance with this section.

(i) For the purposes of compliance with this section, the department shall permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another when changing employment. The department shall supply the individual with documentation of the clearance within 30 days of a written request for the records.

1596.872. (a) The department shall establish a child care ombudsman program. Each regional office, as well as the central office of the department, shall have an ombudsman who has knowledge of state child care laws, regulations, and programs. The ombudsman's duties shall include, but not be limited to, all of the following:

(1) Providing information to the general public and parents on child care licensing standards and regulations.

(2) Serving as a liaison to local business, community, law enforcement, labor, and education groups, as well as child care providers and consumers, for the purpose of providing information about licensing standards and regulations.

(3) Disseminating information on the state's licensing role and

activities, child care resource and referral agencies, and other child care programs.

(4) Acting as a liaison to child care resource and referral agencies to provide current information on licensing regulations, procedures, violations, revocations, and activities.

(5) Investigating and seeking to resolve complaints and concerns communicated on behalf of children served by a child day care facility. Complaints shall be handled in an objective manner to ascertain the pertinent facts. The ombudsman may refer any complaint to the appropriate state or local government agency.

(b) The ombudsman shall have access to child day care facilities and shall have the authority to speak with children and staff.

(c) The department shall report to the Legislature and the Governor, on December 31, 1985, and annually thereafter, the number of complaints resolved and referred and any related follow-up activities, and the number of facilities visited pursuant to subdivision (a).

1596.873. The advisory committee established pursuant to Section 8286 of the Education Code shall perform all of the following functions with regard to this chapter:

(a) Assist the department in developing and reviewing guidelines for the administration of this chapter.

(b) Review the implementation of this chapter.

(c) Make written recommendations to the Legislature, the Governor, and the department by December 31, 1985, with regard to possible improvements to facilitate the implementation of this chapter.

(d) Advise the director regarding regulations, policy, and administrative practices pertaining to the licensing of child care facilities.

1596.874. (a) The State Department of Social Services shall furnish each licensed facility with a notice that shall be posted at the facility where it can be easily seen by employees and consumers. The required notice shall contain information which does all of the following:

(1) Identifies the licensing agency and how licensing regulations may be obtained.

(2) Gives local telephone numbers where complaints may be made.

(3) Contains the nonretaliation provision in this section.

(b) The licensee of the facility shall make his or her copy of current licensing regulations available to employees and consumers.

Article 3. Remedies for Employer Discrimination

1596.880. For the purposes of this article:

(a) "Employee" means employee of a licensee or employee of the agent of a licensee subject to this chapter.

(b) "Employer" means a licensee or agent of a licensee subject to

this chapter.

1596.881. No employer shall discharge, demote, or suspend, or threaten to discharge, demote, or suspend, or in any manner discriminate against any employee who takes any of the following actions:

(a) Makes any good faith oral or written complaint of the violation of any licensing or other laws by the employer to the State Department of Social Services or other agency having statutory responsibility for enforcement of the law or to the employer or representative of the employer.

(b) Institutes, or causes to be instituted, any proceeding against the employer in relation to the violation of any licensing or other laws.

(c) Is, or will be, a witness or testify in a proceeding in relation to the violation of any licensing or other laws.

(d) Refuses to perform work in violation of a licensing law or regulation after notifying the employer of the violation.

"Other laws" for the purposes of this section, includes, but is not limited to, laws relating to staff-child ratios, transportation of children, or child abuse.

1596.882. (a) A claim by the employee alleging the violation by the employer of Section 1596.881 shall be presented to the employer within 10 days after the action as to which complaint is made and presented to the Division of Labor Standards Enforcement not later than 30 days after the action as to which complaint is made.

(b) Upon receipt of the complaint, the Division of Labor Standards Enforcement shall cause whatever investigation to be made as it deems appropriate.

(c) If upon investigation the Division of Labor Standards Enforcement determines that the employer has violated Section 1596.881, it shall bring an action in any appropriate court against the employer.

(d) In any such action, the court shall have jurisdiction, for cause shown, to issue restraining orders and order all appropriate relief, including rehiring and reinstatement of the employee of his or her former position with backpay and benefits.

(e) Within 30 days of the receipt of a complaint pursuant to this section, the Division of Labor Standards Enforcement shall review the facts of the employee's complaint, set a hearing date or notify the employee and the employer of its decision, and, where necessary, begin the appropriate court action to enforce the decision.

(f) Except for any grievance procedure or arbitration or hearing that is available to the employee pursuant to a collective bargaining agreement, this section is the exclusive means for presenting claims under this article.

1596.883. Any employer who willfully refuses to rehire, promote, or otherwise restore an employee or former employee who has been determined to be eligible for the rehiring or promotion by a grievance procedure, arbitration, or hearing authorized by law, is

guilty of a misdemeanor.

Article 4. Suspension and Revocation

1596.885. The department may suspend or revoke any license, registration, or special permit issued under the provisions of this act upon any of the following grounds and in the manner provided in this act:

(a) Violation by the licensee, registrant, or holder of a special permit of any provision of this act or of the rules and regulations promulgated under this act.

(b) Aiding, abetting, or permitting the violating of any provision of this act or of the rules and regulations promulgated under this act.

(c) Conduct in the operation or maintenance, or both the operation and maintenance, of a child day care facility which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of this state.

(d) The conviction of a licensee, or other person specified in Section 1596.871, at any time during licensure, of a crime as defined in Section 1596.871.

1596.886. The director may temporarily suspend any license, registration, or special permit, prior to any hearing when, in the opinion of the director, the action is necessary to protect any child of the day care center from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The director shall notify the licensee, registrant, or holder of the special permit of the temporary suspension and the effective date thereof and at the same time shall serve the provider with an accusation. Upon receipt of a notice of defense to the accusation by the licensee, registrant, or holder of the special permit, the director shall, within 15 days, set the matter for hearing, and the hearing shall be held as soon as possible but not later than 30 days after receipt of the notice. The temporary suspension shall remain in effect until such time as the hearing is completed and the director has made a final determination on the merits. However, the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 30 days after the original hearing has been completed.

1596.887. Proceedings for the suspension, revocation, or denial of a license, registration, or special permit under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by that chapter. In the event of conflict between the provisions of this chapter and those provisions of the Government Code, the provisions of the Government Code shall prevail.

1596.888. Any license, registration, or special permit suspended pursuant to this chapter, and any special permit revoked pursuant to this chapter, may be reinstated pursuant to Section 11522 of the

Government Code.

Article 5. Offenses

1596.89. The director may bring an action to enjoin the violation or threatened violation of Section 1596.90 in the superior court in and for the county in which the violation occurred or is about to occur. Any proceeding under this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or irreparable damage or loss. Upon a finding by the director that the violation threatens the health or safety of any child in, or served by, a child day care facility, the agency contracted with may bring an action to enjoin the violation, threatened violation, or continued violation by any day care center which is located in an area for which it is responsible pursuant to the terms of the contract.

1596.890. Any person who willfully or repeatedly violates any provision of this chapter, or any rule or regulation promulgated under this chapter is guilty of a misdemeanor. Upon conviction thereof, such a person shall be punished by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail for a period not to exceed 180 days, or by both the fine and imprisonment.

SEC. 10. Chapter 3.5 (commencing with Section 1596.90) is added to Division 2 of the Health and Safety Code, to read:

CHAPTER 3.5. DAY CARE CENTERS

Article 1. General Provisions

1596.90. No day care center for children shall be licensed under Chapter 3 (commencing with Section 1500), but shall be subject to licensure exclusively in accordance with this chapter and Chapter 3.4 (commencing with Section 1596.70).

Article 2. Licensure Requirements

1596.95. Any person desiring issuance or renewal of a license for a day care center or a special permit for specialized services in a day care center under the provisions of this chapter shall file with the department pursuant to regulations, an application on forms furnished by the department, which shall include, but not be limited to, all of the following:

(a) Evidence satisfactory to the department of the ability of the applicant to comply with the provisions of this chapter and of rules and regulations promulgated under this chapter by the department. Where there is an application for renewal of a license, evidence

satisfactory to the department that the licensee has substantially complied for the term of the previous license with the provisions of this chapter, and with the rules and regulations promulgated pursuant to this chapter.

(b) Evidence satisfactory to the department that the applicant is a reputable and responsible character. This evidence shall include, but not be limited to, a criminal record clearance pursuant to Section 1596.871, employment history, and character references. If the applicant is a firm, association, organization, partnership, business trust, corporation, or company, evidence of reputable and responsible character shall be submitted as to the members or shareholders thereof, and the person in charge of the day care center for which application for issuance or renewal of license or special permit is made.

(c) Evidence satisfactory to the department that the applicant has sufficient financial resources to maintain the standards of service required by regulations adopted pursuant to this chapter. The information shall be required only upon initial application for licensure, and when requested by the department, in writing, explaining the need for the evidence as part of the department's investigative function.

(d) Disclosure of the applicant's prior or present service as an administrator, general partner, corporate officer, or director of, or as a person who has held or holds a beneficial ownership of 10 percent or more in any child day care facility or in any facility licensed pursuant to Chapter 1 (commencing with Section 1200) or Chapter 2 (commencing with Section 1250) or Chapter 3 (commencing with Section 1500).

(e) Disclosure of any revocation or other disciplinary action taken, or in the process of being taken, against a license held or previously held by the entities specified in subdivision (d).

(f) Such other information as may be required by the department for the proper administration and enforcement of this chapter.

1596.96. A license or special permit for a day care center for children may be issued for a period not to exceed three years, if the licensee has been found not to be in violation of any statutory requirements or rules or regulations during the preceding license period. No fee shall be required to accompany any application for a license or special permit of any such facility.

1596.97. A license or special permit for a day care center for children may be issued for a period not to exceed three years, providing the licensee has been found not to be in violation of any statutory requirements or rules or regulations during the preceding license period. No fee shall be required to accompany any application for a license, special permit, or license renewal of any such facility.

1597.98. The department shall notify the day care center in writing of all deficiencies in its compliance with this chapter and the rules and regulations adopted pursuant to this chapter, and shall set

a reasonable length of time for compliance by the center. Upon a finding of noncompliance, the department may levy a civil penalty not to exceed fifty dollars ($50) per day which shall be paid to the department each day until the department finds the center in compliance. If the center fails to comply within the established length of time, then the amount collected from the facility shall be forfeited to the department. In that case, the department may also initiate action against the facility in accordance with Article 4 (commencing with Section 1596.885) of Chapter 3.4.

Article 3. Administration

1597.05. (a) Licensing reviews of care and services of a day care center shall be limited to health and safety considerations and shall not include any reviews of the content of any educational or training program of the facility.

(b) If the department finds that the records are incomplete, the child day care facility shall have 30 days following the discovery to present the completed records to the department. No additional onsite inspections for the purpose of checking completion of the designated records shall be made during the 30-day period.

"Records," for the purposes of this subdivision, means those types of records requiring information from sources not in the control of the facilities, and include, but are not limited to, all of the following:

(1) Physical examination reports by physicians and surgeons.

(2) Confirmation of required immunizations.

(3) Submission of official data describing the educational qualifications of the facility staff.

1597.06. By July 1, 1985, the department shall establish a task force comprised of representatives from the State Department of Health Services, county health agencies, the advisory committee established pursuant to Section 8286 of the Education Code, and professional organizations representing pediatricians and other health providers, to review or develop regulations regarding the care of children with non-life-endangering illnesses in facilities licensed under this chapter.

1597.07. The department shall require of every licensee a written policy statement which shall include names and qualifications of all current employees, admission policies, program philosophy, the location and telephone number of the nearest local office responsible for child day care licensing, disciplinary practices, and the licensee's policy and practice regarding preventive health and care of children with non-life-endangering illnesses. The facility shall retain an affidavit signed by the parent or guardian of every child in the facility indicating he or she has read this statement. The licensee shall also provide to all parents, at the consent of the parents involved, a list of parents of children served by the facility.

1597.08. All site visits shall be unannounced.

1597.09. Site visitations shall be made as provided in this section

as follows:

(a) A site visitation to all licensed day care centers shall be made annually.

(b) A site visitation shall be required for the renewal of a license.

SEC. 10.5. The heading of Chapter 3.6 (commencing with Section 1597.30) of Division 2 of the Health and Safety Code is amended to read:

CHAPTER 3.6. FAMILY DAY CARE HOMES

SEC. 11. Section 1597.35 of the Health and Safety Code is repealed.

SEC. 12. Section 1597.51 of the Health and Safety Code is amended and renumbered to read:

1596.871. The department shall establish, administer, and monitor a program which licenses family day care homes for children consistent with the provisions of this act except in those counties conducting pilot projects under Section 1597.62.

SEC. 13. Section 1597.52 of the Health and Safety Code is amended to read:

1597.52. (a) Licensing reviews of care and services of a family day care home for children shall be limited to health and safety considerations and shall not include any reviews of the content of any educational or training programs of the facility.

(b) No home shall be licensed or registered as a large family day care home after January 1, 1984, unless the provider has at least one year experience as a regulated small family day care home operator or as an administrator of a licensed child day care center. The director may waive this requirement upon a finding that the applicant has sufficient qualifying experience.

SEC. 14. Section 1597.53 of the Health and Safety Code is amended to read:

1597.53. No family day care home for children shall be licensed under Chapter 3 (commencing with Section 1500), but shall be subject to licensure exclusively in accordance with this chapter and Chapter 3.4 (commencing with Section 1596.70) which shall apply to family day care homes.

SEC. 15. Section 1597.54 of the Health and Safety Code is amended to read:

1597.54. All family day care homes for children, shall apply for an initial license under this chapter, except that any home which on June 28, 1981, had a valid and unexpired license to operate as a family day care home for children under other provisions of law shall be deemed to have a license under this chapter for the unexpired term of the license at which time it may be renewed upon fulfilling the requirements of this chapter.

An applicant for initial licensure as a family day care home for children shall file with the department, pursuant to its regulations, an application on forms furnished by the department, which shall

include, but not be limited to, all of the following:

(a) A brief statement confirming that the applicant is financially secure to operate a family day care home for children. The department shall not require any other specific or detailed financial disclosure.

(b) Evidence that the small family day care home contains a fire extinguisher or smoke detector device, or both, which meets standards established by the State Fire Marshal under subdivision (d) of Section 1597.45 or evidence that the large family day care home meets the standards established by the State Fire Marshal under subdivision (d) of Section 1597.46.

(c) The fingerprints of any operator of a family day care home, and any other adult living in the same location.

(d) Evidence of a current tuberculosis clearance for any adult in the home during the time that children are under care.

(e) Such other information as may be required by the department for the proper administration and enforcement of the chapter.

SEC. 16. Section 1597.55 of the Health and Safety Code is amended to read:

1597.55. No site visitations, or unannounced visits or spot checks, shall be made under this chapter except as provided in this section.

(a) A site visitation shall be required prior to the initial licensing of the applicant.

(b) An unannounced site visitation shall be required for the renewal of a license.

(c) A public agency under contract with the department may make spot checks if it does not result in any cost to the state. However, spot checks shall not be required by the department.

(d) The department or licensing agency shall make an unannounced site visitation on the basis of a complaint and a followup visit as provided in Section 1597.56.

(e) In addition to any site visitation or spot check authorized under this section, the department shall annually make unannounced visits on 10 percent of all family day care homes for children licensed under this chapter. The unannounced visits may be made at any time, including the time of a request for a renewal of a license.

SEC. 18. Section 1597.57 of the Health and Safety Code is amended to read:

1597.57. The department shall do all of the following:

(a) Develop and utilize one application form for all family day care homes for children requesting a new license or a renewal of a license.

(b) Establish for parents a consumer education program annually on the law and regulations governing family day care homes for children under this chapter and the role of the state and other public entities and local associations in relation to family day care homes for children. In planning this program, the department shall seek the assistance of other public entities and local associations.

(c) Administer an orientation program for new operators of family day care homes for children which may be conducted directly by the department or by contract with local governments or family day care home associations.

SEC. 20. Section 1597.60 of the Health and Safety Code is amended to read:

1597.60. No fee shall be charged by the department for the initial issuance or renewal of a license or for processing any application therefor under this chapter.

SEC. 21. Section 1597.61 of the Health and Safety Code is amended to read:

1597.61. (a) When the department determines that a family day care home for children is operating without a license and notifies the unlicensed provider of the requirement for the license, the licensing agency may issue a cease and desist order only if it finds and documents that continued operation of the facility will be dangerous to the health and safety of the children. In all other cases where the licensing agency determines such a facility is operating without a license and notifies the unlicensed provider of the requirements for the license, the licensing agency may issue a cease and desist order only if the unlicensed provider does not apply for a license within a reasonable time after the notice.

(b) If an unlicensed family day care home fails to respond to a cease and desist order issued pursuant to subdivision (a), or if the department determines it necessary to protect the immediate health and safety of the children, the licensing agency may bring an action to enjoin such a home from continuing to operate.

(c) The district attorney of a county shall, upon application by the department, institute and conduct the prosecution of any action brought by the licensing agency against an unlicensed family day care home located in that county.

(d) Any action brought by the division against an unlicensed family day care home shall not abate by reason of a sale or other transfer of ownership of the family day care home which is party to the action except with written consent of the licensing agency.

SEC. 22. Section 1597.621 of the Health and Safety Code is amended to read:

1597.621. Family day care homes which, on December 31, 1983, have a valid unexpired registration to operate as a family day care home for children pursuant to Section 1597.62 in one of the pilot counties shall be deemed to be issued a family day care license effective January 1, 1984. Licensure pursuant to this section shall not require a visit pursuant to the requirement set forth in subdivision (a) of Section 1597.55. However, all other requirements of licensing shall continue to be met. Complaint and revocation procedures may be enforced. The department shall establish a schedule of expiration dates for licenses issued pursuant to this section. Licenses issued pursuant to this section shall be eligible for renewal under the license renewal procedures contained in Section 1597.58. All requirements

of family day care licensing shall be met at the time of renewal.

SEC. 23. Section 1597.64 of the Health and Safety Code is amended and renumbered to read:

1596.875. To assure compliance with this act, the department shall:

(a) Conduct ongoing in-service programs for licensing staff in cooperation with other public entities and local associations.

(b) Conduct an annual seminar for representatives of enforcement agencies, including, but not limited to, police officers, district attorneys, and judges.

(c) Work with the Department of Justice to assure that license revocations appear on criminal records.

SEC. 24. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 25. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 26. Two million dollars ($2,000,000) is appropriated from the General Fund to the State Department of Social Services, without respect to fiscal years, for the purposes of implementing Sections 1596.87, 1596.872, and 1597.09 of the Health and Safety Code.

SEC. 27. (a) Section 2.1 of this bill incorporates amendments to Section 1505 of the Health and Safety Code proposed by both this bill and SB 2274. It shall only become operative if (1) both bills are enacted and become effective January 1, 1985, (2) each bill amends Section 1505 of the Health and Safety Code, and (3) AB 469 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 2274, in which case Sections 2, 2.2, and 2.3 of this bill shall not become operative.

(b) Section 2.2 of this bill incorporates amendments to Section 1505 of the Health and Safety Code proposed by both this bill and AB 469. It shall only become operative if (1) both bills are enacted and become effective January 1, 1985, (2) each bill amends Section 1505 of the Health and Safety Code, (3) SB 2274 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 469 in which case Sections 2, 2.1 and 2.3 of this bill shall not become operative.

(c) Section 2.3 of this bill incorporates amendments to Section 1505 of the Health and Safety Code proposed by this bill, SB 2274, and AB 469. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1985, (2) all three bills amend Section 1505 of the Health and Safety Code, (3) this bill is

enacted after SB 2274 and AB 469, in which case Sections 2, 2.1 and 2.2 of this bill shall not become operative.

SEC. 28. Section 1.5 of this bill incorporates amendments to Section 1502 of the Health and Safety Code proposed by both this bill and AB 3747. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 1502 of the Health and Safety Code, and (3) this bill is enacted after AB 3747, in which case Section 1 of this bill shall not become operative.

CHAPTER 1616

An act to add Section 270.5 to the Penal Code, relating to minors.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 270.5 is added to the Penal Code, to read:

270.5. (a) Every parent who refuses, without lawful excuse, to accept his or her minor child into the parent's home, or, failing to do so, to provide alternative shelter, upon being requested to do so by a child protective agency and after being informed of the duty imposed by this statute to do so, is guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars ($500).

(b) For purposes of this section, "child protective agency" means a police or sheriff's department, a county probation department, or a county welfare department.

(c) For purposes of this section, "lawful excuse" shall include, but not be limited to, a reasonable fear that the minor child's presence in the home will endanger the safety of the parent or other persons residing in the home.

SEC. 2. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 1617

An act to amend Section 8261 of, and to add Sections 8255, 8256, 8257, and 8258 to, the Education Code, and to add Section 1544 to the Health and Safety Code, relating to child care and development.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984]

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

SECTION 1. Section 8255 is added to the Education Code, immediately preceding Section 8260, to read:

8255. (a) The Legislature finds and declares that the effectiveness of child care and development programs can be increased through improved state administration, technical assistance to provider agencies, and monitoring.

(b) It is the intent of the Legislature:

(1) That the State Department of Education develop clear, consistent, and appropriate regulations for child care and development programs to replace policy guidelines which are not subject to the public hearing process, often inconsistent, and without the force of law.

(2) That the State Department of Education make better use of staff with direct field experience in child development programs.

(3) That better criteria be developed for the awarding, evaluating, and renewal of child care and development contracts.

(4) That improvements be made in the method of reimbursing child care and development program providers.

(5) That increased effort be made to provide program operators with technical assistance in meeting their contractual obligations.

SEC. 2. Section 8256 is added to the Education Code, to read:

8256. The State Department of Education shall do all of the following:

(a) Establish a toll-free number for programs which receive funds from the state department pursuant to this chapter and which are in need of technical assistance to the extent that funds are made available for the purposes of this subdivision by Senate Bill 1674 of the 1984 portion of the 1983–84 Regular Session. This subdivision shall become inoperative on and after January 1, 1986.

(b) Gather information and act as a central clearinghouse on parenting materials.

(c) Develop procedures for annually evaluating the field services and the program support which is to be provided to the contracting agencies.

SEC. 3. Section 8257 is added to the Education Code, to read:

8257. The State Department of Education shall do all of the following in administering the provisions of this chapter:

(a) Apply sanctions against contracting agencies that have serious

licensing violations, as defined and reported by the State Department of Social Services pursuant to Section 1544 of the Health and Safety Code.

(b) Submit to the review group established by subdivision (e) for comment all policy memoranda and guidelines 30 days prior to issuing the policy memoranda and guidelines to child care program contractors.

(c) Establish an inservice training program for professional staff and submit this training program to the review group established by subdivision (e).

(d) Provide 90 days' written notification to any contractor whose agreement is being terminated, except when there is imminent danger to the health and welfare of children if agency operation is not terminated more promptly. Notwithstanding Article 18 (commencing with Section 8400), the state department shall establish procedures for placing a contractor whose agreement is being terminated into receivership. Action to initiate receivership shall be at the discretion of the state department, and may be taken against a contractor whose agreement is being terminated either immediately or within 90 days. The receiver shall not be a state department employee. The receiver shall have sufficient experience in the administration of child care and development programs to ensure compliance with the terms of the receivership.

(e) Establish a review group composed of representatives of each of the following:

(1) The Child Development Programs Advisory Committee.

(2) Child care program administrators from public school districts, county offices of education, and private nonprofit preschool and child development programs.

(3) Consumers of child care services.

(4) Family day care providers.

To the extent possible, composition of the review group shall reflect equity in geographic, ethnic, and programmatic interests.

SEC. 4. Section 8258 is added to the Education Code, to read:

8258. (a) No person employed by the State Department of Education in a policymaking position in the area of child care and development programs shall serve as a member of the board of directors, advisory council, or advisory committee for any agency receiving funds pursuant to this chapter. The provisions of this subdivision shall not apply to any person appointed prior to January 1, 1985.

(b) No retired, dismissed, separated, or formerly employed person of the state department employed under the State Civil Service or otherwise appointed to serve in the state department may enter into a contract pursuant to Section 8262 in which he or she engaged in any of the negotiations, transactions, planning, arrangements, or any part of the decisionmaking process relevant to the contract while employed in any capacity by the state department. The prohibition contained in this subdivision shall apply

to the person only during the two-year period beginning on the date the person left state employment.

(c) For a period of 12 months following the date of his or her retirement, dismissal, or separation from state service, no person employed under State Civil Service or otherwise appointed to serve in the state department may enter into a contract pursuant to Section 8262 if he or she was employed by the department in a policymaking position in the area of child care and development programs within the 12-month period prior to his or her retirement, dismissal, or separation.

(d) For a period of 12 months following the date of his or her retirement, dismissal, or separation from state service, no person employed under State Civil Service or otherwise appointed to serve in the department may be employed by a contractor pursuant to Section 8262 if he or she engaged in any of the negotiations, transactions, planning, arrangements, or any part of the decisionmaking process relevant to the contract while employed in any capacity by the department.

(e) The provisions of subdivisions (b), (c), and (d) shall not apply to any persons who were already in the situations described by these subdivisions prior to January 1, 1985.

SEC. 5. Section 8261 of the Education Code is amended to read:

8261. (a) The Superintendent of Public Instruction shall adopt rules and regulations pursuant to this chapter. The rules and regulations shall include, but not be limited to, provisions which do all of the following:

(1) Provide clear guidelines for the selection of agencies when child development contracts are let, including, but not limited to, specification that any agency headquartered in the proposed service area on January 1, 1985, will be given priority for a new contract in that area, unless the State Department of Education makes a written determination that (A) the agency is not able to deliver the level of services specified in the request for proposal, or (B) the department has notified the agency that it is not in compliance with the terms of its contract.

(2) Provide for a contract monitoring system to ensure that agencies expend funds received pursuant to this chapter in accordance with the provisions of their contracts.

(3) Specify adequate standards of agency performance.

(4) Establish reporting requirements for service reports, incuding provisions for varying the frequency with which these reports are to be submitted on the basis of agency performance.

(5) Specify standards for withholding payments to agencies that fail to submit required fiscal reports.

(6) Set forth standards for state department site visits to contracting agencies, including, but not limited to, specification as to the purpose of the visits, the personnel that will perform these visits, and the frequency of these visits which shall be as frequently as staff and budget resources permit. On an annual basis, beginning

September 1985, the department shall report to the Senate Education, Senate Health and Human Services, Assembly Education, and Assembly Human Services Committees on the number of visits conducted during the previous fiscal year pursuant to this paragraph.

(b) The superintendent shall consult with the State Department of Social Services with respect to rules and regulations adopted relative to the disbursal of federal funds under Title XX of the federal Social Security Act.

SEC. 6. Section 1544 is added to the Health and Safety Code, to read:

1544. The state department shall notify the State Department of Education when a child care or development facility licensed pursuant to this chapter is found to have licensing violations which the state department has determined, by regulation, to endanger the health and safety of the children receiving care. This notification shall be made no later than 15 days after the finding of the violation or violations.

SEC. 7. The State Department of Education shall submit a report to the Joint Legislative Budget Committee no later than March 1, 1985, on the most appropriate method for funding child care and development programs. This report shall include, but not be limited to, specification of current requirements, and recommendations for improving these standards in all of the following areas:

(a) Methods of reimbursement.

(b) The definition of "excused absences."

(c) The number and type of absences considered to be "in the best interests of children."

(d) Child days of enrollment.

(e) Use of "carryover" funds.

(f) Methods of using the maximum reimbursable amount.

(g) Procedures for adjusting payments to agencies to match these agencies' earnings.

(h) Procedures for placing a contractor whose agreement is being terminated into receivership, pursuant to subdivision (d) of Section 8257.

CHAPTER 1618

An act to amend Sections 330 and 18969 of, and to add and repeal Sections 18964, 18964.1, 18964.5, 18964.6, and 18964.7 of, the Welfare and Institutions Code, relating to child abuse prevention, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. The Legislature finds and declares that the cost of removing children from the home because of abuse and neglect is exceedingly high. The Legislature further finds and declares that other states have resolved this problem through various successful models which can be effectively utilized in this state.

SEC. 2. Section 330 of the Welfare and Institutions Code is amended to read:

330. In any case in which a probation officer after investigation of an application for petition or other investigation he or she is authorized to make, determines that a minor is within the jurisdiction of the juvenile court or will probably soon be within that jurisdiction, the probation officer may, in lieu of filing a petition or subsequent to dismissal of a petition already filed, and with consent of the minor's parent or guardian, undertake a program of supervision of the minor, for a period not to exceed six months. Commencing on October 1, 1983, services may be extended up to an additional six months if it can be shown that the objectives of the service plan can be achieved within the extended time period. If a program of supervision is undertaken, the probation officer shall attempt to ameliorate the situation which brings the minor within, or creates the probability that the minor will be within, the jurisdiction of Section 300 by providing or arranging to contract for all appropriate child welfare services pursuant to Chapter 5 (commencing with Section 16500) of Part 4 of Division 9. No further in-home child welfare services shall be provided subsequent to these time limits. If the family has refused to cooperate with the services being provided, the probation officer may file a petition with the juvenile court pursuant to Section 332. Nothing in this section shall be construed to prevent the probation officer from filing a petition pursuant to Section 332 when otherwise authorized by law.

The program of supervision of the minor undertaken pursuant to this section may call for the minor to obtain care and treatment for the misuse of restricted dangerous drugs or addiction to narcotics from a county mental health service or other appropriate community agency.

Probation departments in counties designated by the department as pilot projects for in-home care programs, pursuant to Section 18964, may place , and will designate, a projected number of children to be referred each year in these projects.

SEC. 3. Section 18964 is added to the Welfare and Institutions Code, to read:

18964. The Office of Child Abuse Prevention shall contract for the operation of six pilot projects to be based on in-home care.

Each of the pilot projects shall develop programs of in-home care designed to avoid out-of-home placement of abused or neglected children. These programs:

(a) Provide in-home services utilizing licensed therapists who

have at least a masters degree or the equivalent combination of education and experience.

(b) Provide intensive supplemental training to any staff therapist concerning therapeutic techniques and local resources before assigning any client to the therapist.

(c) Limit the number of families assigned to a therapist at any given time to a maximum of two.

(d) Offer services only to families where it appears that unless the program's services are provided, it will be necessary to place one or more children out of the home.

(e) Have the therapist assigned to a family, be on call and available to the family 24 hours a day, for a period appropriate to the family's needs, which is ordinarily a period of four to six weeks.

(f) Keep records, conduct internal evaluation, and cooperate with external evaluation as directed by the Office of Child Abuse Prevention.

To qualify for continued funding each agency shall meet the following annual minimum performance goals:

(1) Each agency shall demonstrate a success rate of 75 percent in avoiding out-of-home placement six months after intervention, with increased success rates in subsequent years.

(2) Each agency shall submit a detailed budget and annual audit.

(3) Each agency shall submit a letter of agreement from an established in-home care program or the local county welfare or probation department indicating continued support and affiliation with the funded agency.

These pilot projects shall provide services to children who are within the jurisdiction of the juvenile court pursuant to Section 330, or who are dependent children not taken from the physical custody of their parents or guardian pursuant to Section 364, or who are dependent children removed from the physical custody of their parents or guardian pursuant to Section 361. The caseworker may return a dependent child removed from the home pursuant to Section 361, with appropriate pilot project services, in an appropriate case, pursuant to a new court order which may be granted on an ex parte basis. Caseworkers shall provide intensive assistance to families with children who have suffered child abuse or neglect. Services shall be described and ordered in the case plan developed by the probation officer.

The six pilot projects shall be located in different counties selected by the Office of Child Abuse Prevention. There shall be geographic equity in the selection of counties and at least one county shall be rural. Services to minority populations shall be reflected in the funding of programs. Rural counties are those having populations of under 125,000. The selection of agencies to be funded shall be determined by the Office of Child Abuse Prevention utilizing a representative from a local county welfare department selected by the respective county board of supervisors to participate on the selection committee. In no event shall the county representative be

affiliated with any agency that bids for a contract pursuant to Section 18964.5. Each project shall be funded at a level of one hundred fifty thousand dollars ($150,000) per year, except that the funding level for each project shall be commensurate, and may be reduced in accordance, with the number of children to be served by that project.

This section shall remain in effect only until January 1, 1988, and on that date is repealed, unless a later enacted statute chaptered prior to that date extends or deletes that date.

SEC. 4. Section 18964.1 is added to the Welfare and Institutions Code, to read:

18964.1. The Office of Child Abuse Prevention shall develop specific criteria to contract for the operation of three pilot projects, designed to maximize the safety, security, comfort, and quality of life of children aged 14 or under who are in self-care during hours of parental employment or other unavailability, by training families in how to accomplish these goals, and by other techniques designed to accomplish these goals that are consistent with the requests for proposals issued pursuant to Section 18964.5. Geographic equity throughout the state and services to minority populations shall be reflected in the funding of programs.

The three pilot projects shall be located in different counties selected by the office. At least one county shall be rural. Rural counties are those having populations of under 125,000.

Each pilot project shall provide training to families who use self-care with young children. The selection of agencies to be funded shall be determined by the Office of Child Abuse Prevention utilizing a representative from a local coordinating child abuse council selected by the respective county board of supervisors to participate on the selection committee. Each project shall receive no more than seventy-five thousand dollars ($75,000) per year.

This section shall remain in effect only until January 1, 1988, and on that date is repealed, unless a later enacted statute chaptered prior to that date extends or deletes that date.

SEC. 5. Section 18964.5 is added to the Welfare and Institutions Code, to read:

18964.5. Contracts for pilot projects established under Sections 18964 and 18964.1 shall be entered into utilizing a competitive bid basis. Contracts may only be entered into by public or private nonprofit agencies, except for child protection agencies as defined in subdivision (k) of Section 11165 of the Penal Code.

Projects shall be evaluated through internal and external evaluation processes. The total cost of the external evaluation of the projects under both Sections 18964 and 18964.1 shall not exceed two hundred twenty-five thousand dollars ($225,000). A contract or contracts for evaluation shall be entered into utilizing a competitive bid basis, with no restriction on the categories of agencies that may bid. Requests for evaluation proposals shall be issued within 90 days of the effective date of the addition of this section, as enacted, during

the 1983–84 Regular Session. Requests for pilot project proposals shall be issued within 90 days of the date the requests for evaluation proposals are issued.

Agencies selected for funding shall receive funds in a timely manner, including an advance of funds when necessary to initiate a project.

The State Department of Social Services shall conduct yearly audits of agencies contracting to establish pilot projects pursuant to Sections 18964 and 18964.1 in order to assure contract compliance.

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

SEC. 6. Section 18964.6 is added to the Welfare and Institutions Code, to read:

18964.6. The Office of Child Abuse Prevention shall develop a system of written guidelines for funding and a system of performance standards for monitoring the effectiveness of the pilot programs. The standards shall consist of measurable objectives, including, but not limited to, a measure of success at avoiding the need for out-of-home placement and the cessation of abuse, neglect, or sexual exploitation. Each pilot project shall be evaluated in terms of these standards. The effectiveness of programs of pilot projects funded pursuant to Sections 18964 and 18964.1 shall be evaluated by a public institution or private nonprofit agency or other qualified organization selected by the department. Funding for the evaluation of these pilot projects shall be provided from the State Children's Trust Fund.

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

SEC. 7. Section 18964.7 is added to the Welfare and Institutions Code, to read:

18964.7. During the 1986–87 fiscal year, the Auditor General shall evaluate compliance with the competitive process for contracting with agencies pursuant to Section 18964.5, including timely distribution of funds. In addition, the Auditor General shall evaluate compliance with Section 18964.6. The Auditor General shall report to the Legislature on his or her findings no later than December 31, 1986.

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

SEC. 8. Section 18969 of the Welfare and Institutions Code is amended to read:

18969. There is hereby created in the State Treasury a fund which shall be known as the State Children's Trust Fund. The fund shall consist of funds received from a county pursuant to Section 18968, funds collected by the state and transferred to the fund pursuant to subdivision (b) of Section 10605 of the Health and Safety Code and

Article 6 (commencing with Section 18500) of Chapter 17 of Part 10 of Division 2 of the Revenue and Taxation Code, grants, gifts, or bequests made to the state from private sources to be used for child abuse and neglect prevention and money appropriated to the fund for this purpose by the Legislature. The State Registrar may retain a percentage of the fees collected pursuant to Section 10605 of the Health and Safety Code, not to exceed 10 percent, in order to defray the costs of collection. The Franchise Tax Board may retain up to 5 percent of the taxpayer contributions to the fund made pursuant to Article 6 (commencing with Section 18500) of Chapter 17 of Part 10 of Division 2 of the Revenue and Taxation Code, to reimburse the board for the costs of administering that article.

Notwithstanding Section 13340 of the Government Code, money in the State Children's Trust Fund is continuously appropriated without regard to fiscal years to the State Department of Social Services for the purpose of funding child abuse and neglect prevention and intervention programs. The department shall use no more than 5 percent of the funds appropriated pursuant to this section for administrative costs.

The department may establish positions as needed for the purpose of implementing and administering child abuse and neglect prevention and intervention programs that are funded by the State Children's Trust Fund.

SEC. 9. The sum of one million five hundred thousand dollars ($1,500,000) is hereby annually appropriated for three years from the General Fund to the State Children's Trust Fund for the purpose of implementing the provisions of Sections 2 through 5 of this act.

CHAPTER 1619

An act to amend Section 8851 of, to add Chapter 5.5 (commencing with Section 8850) to Part 6 of, and to repeal Section 8852 of, the Education Code, and to amend Item 6100-101-890 of Chapter 258 of the Statutes of 1984, relating to education, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Chapter 5.5 (commencing with Section 8850) is added to Part 6 of the Education Code, to read:

CHAPTER 5.5. FAMILY RELATIONSHIPS AND PARENTING EDUCATION

8850. The Legislature finds all of the following:

(a) The family is our most fundamental social institution, and the institution which plays the most influential role in the growth of each individual human being.

(b) It is within the family context that a person first learns the values, assumptions, rules, attitudes, and skills necessary for functioning in society, acquires a sense of self and of self-worth, and forms the primary bond which, to a substantial extent, determines the nature and quality of subsequent personal and social relations.

(c) The character, presence, awareness, knowledge, and skills of persons who are parents profoundly affects the healthy growth and development of the children of the family.

(d) Scientific research increasingly indicates that child abuse—the opposite of healthy parenting—is one of the root causes of violence in our society.

(e) There is now developing a body of knowledge about healthy child and human development that would prove useful and valuable for persons undertaking the responsibilities of parenthood.

(f) It is crucial to teach parenting skills to our children while they are in their formative years in order to enable them to have the greatest possibility of success in being parents.

(g) Good family relationships and parenting education shall seek to accomplish all of the following:

(1) To have a positive impact on increasing knowledge, self-awareness, self-esteem, and decisionmaking skills.

(2) To promote respect for parental values.

(3) To promote realistic expectations of children that are appropriate to the age and developmental level of the child.

(4) To increase interpersonal communication skills.

(5) To promote individual self-worth.

(6) To promote respect for each other.

(7) To educate the parents of current students as well as the students themselves.

(h) Successful family relationships and parenting education requires a strong base of parent and community involvement and partnership, and recognizes and supports parents as the primary life educators.

(i) There are exemplary family relationships and parenting education programs in some school districts in our state, while other school districts have either less comprehensive programs or no programs at all. The Legislature does not intend to supplant existing programs, but to further develop these programs, as well as to assist in the development of new programs.

(j) It would be beneficial to school districts interested in creating or improving their family relationships and parenting education programs to have the State Department of Education assist them with development, technical, and financial assistance.

8850.5. "Family relationships and parenting education," as used in this chapter, means an instructional program designed to provide pupils at all grade levels with age-appropriate components, including

all of the following:

(a) Development of an understanding of the physical, mental, emotional, social, economic, and psychological aspects of themselves and others, and of the physiological, psychological, and cultural foundations of human development.

(b) The opportunity to acquire knowledge which will support the development of responsible family relationships, strengthen the pupil's current family life, and further the understanding of the role of the parent.

(c) Development of an understanding of the consequences of decisions and actions upon personal, family, and peer relationships.

(d) Recognition of, and attention to, the significance of healthy self-esteem in the growth and development of healthy human beings.

8851. (a) The State Department of Education shall make a survey of school districts within this state to determine the existence, character, and components of their current programs and their needs in family relationships and parenting education curricula.

(b) Based on the results of the study and other available relevant information, the department shall review and revise a comprehensive scope and sequence for family relationships and parenting education for the optional use of school districts.

8852. (a) There is hereby created in the State Department of Education a statewide advisory committee on family relationships and parenting education for the purpose of advising the department on the scope and sequence, and assisting in, the selection of programs as provided in this chapter.

(b) The advisory committee shall be socioeconomically and culturally diverse and shall consist of 15 persons, including representatives of all of the following groups evidencing an interest in parenting education:

(1) At least two students, one of whom shall be male and one of whom shall be female.

(2) Parents.

(3) School administrators.

(4) School board members.

(5) Teachers.

(6) Members of nonprofit organizations.

(c) The advisory committee shall be appointed by the Superintendent of Public Instruction.

(d) The committee members shall serve without compensation, except for travel and per diem expenses.

(e) This section shall remain in effect only until December 31, 1987, and on that date is repealed, unless a later enacted statute, which is chaptered before December 31, 1987, deletes or extends that date.

8853. Upon completion by the department of the scope and sequence of a family relationships and parenting education curricula, and on or before April 1, 1986, the department shall issue requests for

proposals to school districts, nonprofit organizations that have evidenced an interest in family relationships and parenting education, and postsecondary institutions for awards to aid in the implementation of family relationships and parenting education programs in school districts. In making the basic awards, the scope and sequence shall be used by the department as a basic guide, with consideration given to the school districts' interpretation of their own community's needs and level of instruction.

School districts, nonprofit organizations, or postsecondary education institutions are encouraged to utilize local parent and community involvement in the development of the request for proposal and the implementation of the awards.

8854. (a) The department shall grant awards in amounts not to exceed twenty thousand dollars ($20,000) per year, on a competitive basis, as funds are available. Priority for awards shall be given by the department to proposals that provide for matching funds from other sources, including in-kind services and contributions, and community involvement.

(b) Awards shall be made by the department equitably to districts in the northern and southern areas of this state, on or before June 1, 1986. A minimum of one-fourth of all awards shall go to school districts serving rural areas.

8855. The department shall examine the recipient programs and provide the Legislature with an interim overall report by September 1, 1987.

SEC. 2. Section 8851 of the Education Code, as added by Section 1 of this act, is amended to read:

8851. (a) The State Department of Education shall make a survey of school districts within this state to determine the existence, character, and components of their current programs and their needs in family relationships and parenting education curricula. The survey shall include any information requested by the State Department of Education for the review required under Section 51267.

(b) Based on the results of the study and other available relevant information, the department shall review and revise a comprehensive scope and sequence for family relationships and parenting education for the optional use by school districts.

SEC. 3. Section 2 of this act shall become operative only if SB 1616 of the 1983–84 Regular Session is enacted, adds Sections 51267 to the Education Code, and becomes effective on or before January 1, 1985, and in that case shall become operative on January 1, 1985.

SEC. 4. Item 6100-101-890 of Chapter 258 of the Statutes of 1984 is amended to read:

6100-101-890—For local assistance, Department of Education, Federal Block Grant payable from the Federal Trust Fund 35,718,000
Schedule:

(a) 10-Instruction	33,637,000
(b) 20-Instructional support	2,081,000
(c) 41-Executive management and special services	30,000
(d) Reimbursements	−30,000

Provisions:

1. $200,000 of the funds appropriated by this item shall be allocated as a grant by the Superintendent of Public Instruction to a private, nonprofit foundation for the purpose of conducting a program on youth and the administration of justice in at least 15 school districts. These funds shall be allocated in four equal installments during the 1984–85 fiscal year on September 1, December 1, February 1, and May 1.
2. $240,000 of the funds appropriated by this item shall be allocated as a grant by the Superintendent of Public Instruction to the Los Angeles, Santa Clara, and Butte Counties Offices of Education ($80,000 each) for purposes of supporting the state's 3 Centers for Educational Improvement during the 1984–85 fiscal year.
3. $155,000 of the funds appropriated by this item shall be allocated as a grant by the Superintendent of Public Instruction to the Orange County Office of Education for the purpose of supporting that county's exemplary programs during the 1984–85 fiscal year.
4. $300,000 of the funds appropriated by this item shall be allocated by the Superintendent of Public Instruction as awards to aid in the implementation of parenting education programs in school districts.

CHAPTER 1620

An act to add Section 2179.5 to the Business and Professions Code, and to add Part 7 (commencing with Section 1190) to Division 1 of the Health and Safety Code, relating to health care training, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 2179.5 is added to the Business and Professions Code, to read:

2179.5. It is the intent of the Legislature that the Division of Licensing strongly urge those organizations responsible for the development of physician licensing examinations to include within those examinations increased emphasis on medical problems of the elderly.

SEC. 2. Part 7 (commencing with Section 1190) is added to Division 1 of the Health and Safety Code, to read:

PART 7. GERIATRIC PROGRAMS

CHAPTER 1. LEGISLATIVE FINDINGS AND INTENT

1190. (a) The Legislature finds that approximately 12.9 percent of all Californians will be over 65 years of age by the year 2000. As the number of elderly and the amount spent for their health care have increased, serious problems have arisen regarding the availability, quality, and appropriateness of the health services received by the elderly.

The Legislature also finds that there is a need to increase knowledge with respect to the major diseases and disabilities affecting older adults, and to improve the quality of long-term care available to chronically ill and functionally impaired persons.

The Legislature recognizes the vital role that physicians and registered nurses play in the delivery of health care to the elderly and chronically ill. The Legislature also recognizes the desirability of a multidisciplinary approach to meeting the needs of those persons.

(b) The Legislature further recognizes the leadership role taken by the University of California in addressing the needs of the elderly. It is the intent of the Legislature to further encourage the gerontological pursuits of the University of California.

1191. It is the purpose of the Legislature, in enacting this part, to establish academic geriatric resource programs at the University of California medical or other health science campuses. A multidisciplinary approach shall be utilized in the development of these programs. The programs shall include, but not be limited to, one or more of the following elements:

(a) Preclinical, clinical, or postgraduate educational programs in geriatrics for health science students to instruct and train them in recognizing and responding to the needs and dynamics of the geriatric care of elderly patients.

(b) Provision of continuing education in geriatrics for health care providers and the general public.

(c) A teaching nursing home program to research nursing home health care practices and to instruct and train health science students about geriatric care.

1192. For purposes of this part, the following definitions apply:

(a) "Academic geriatric resource program" means a program which includes one of the elements specified in Section 1191.

(b) "Nursing home" means a licensed skilled nursing or licensed intermediate care facility, as defined by Section 1250.

(c) "Teaching nursing home" means a licensed skilled nursing or licensed intermediate care facility, as defined by Section 1250, which is owned or operated by, or affiliated with, a University of California or private university campus with a medical or health sciences center, for the purpose of providing training, patient care, research, and community service.

1193. The Regents of the University of California shall be the agency with the responsibility for making grants for the Academic Geriatric Resource Program.

1195. Commencing January 1, 1986, on January 1 of each year, the Regents of the University of California shall submit a progress report to the Legislature regarding the grant programs established pursuant to the provisions of this part. The report shall include, but not be limited to, all of the following elements:

(a) A description of the progress made in implementing the programs.

(b) The number of academic geriatric resource programs established.

(c) The characteristics of the programs.

(d) The costs of the programs.

1196. No provision of this part shall be applicable to the University of California unless the Regents of the University of California, by resolution, make that provision applicable.

1197. The State Department of Health Services shall seek any Medicaid waivers necessary to implement this part.

1198. (a) It is the intent of the Legislature that the Division of Licensing of the Board of Medical Quality Assurance strongly urge those organizations responsible for the development of physician licensing examinations to include within those examinations increased emphasis on medical problems of the elderly.

(b) The Board of Medical Quality Assurance shall report to the Legislature its initial findings regarding the intent declared in subdivision (a) by January 1, 1986, and shall submit a subsequent report on or before January 1, 1987.

1199. (a) In addition to the other programs provided under this part, it is the intent of the Legislature to encourage the Regents of the University of California to monitor existing physician licensing requirements, and any additional requirements developed in response to Section 1198. It is also the intent of the Legislature that the regents review programs and offerings in the schools of medicine to ensure that graduates of those schools are adequately prepared to meet the licensing requirements in geriatric medicine and any other educational requirements in geriatric medicine deemed appropriate by the regents.

(b) It is the intent of the Legislature that the regents request the medical and other health science schools of the University of California to consider the need for additional emphasis on geriatrics in their curricula. The regents are hereby requested to provide a status report on this need to the Governor and the Legislature by January 1, 1987.

SEC. 3. (a) The sum of one million dollars ($1,000,000) is hereby appropriated from the General Fund to the Regents of the University of California for purposes of providing grants pursuant to Part 7 (commencing with Section 1190) of Division 1 of the Health and Safety Code, as added by Section 1 of this act.

(b) None of the funds appropriated pursuant to subdivision (a) shall be expended by the Regents of the University of California until the regents, by resolution, elect to administer the Academic Geriatric Resource Program.

(c) None of the funds appropriated pursuant to subdivision (a) shall be used to supplant state funds for salaries of personnel or other costs of gerontological programs or activities of the University of California that were already in existence and operating prior to final approval by the Regents of the University of California of the academic geriatric resource program, unless otherwise authorized by the Legislature.

CHAPTER 1621

An act to amend Sections 12200 and 14005.12 of, and to add Sections 12100.5 and 14110.4 to, the Welfare and Institutions Code, relating to Medi-Cal, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 12100.5 is added to the Welfare and Institutions Code, to read:

12100.5. The department shall seek to enter into an agreement with the secretary for the purpose of administration by the secretary of the amount set forth in subdivision (h) of Section 12200.

SEC. 2. Section 12200 of the Welfare and Institutions Code is amended to read:

12200. An aged, blind or disabled applicant or recipient shall be paid an amount of aid which when added to his or her federal benefit received under Part A of Title XVI of the Social Security Act and other nonexempt income and resources, equals the following:

(a) For a blind applicant or recipient, the sum of five hundred thirty-five dollars ($535) per month and for a married couple both qualifying for benefits under this chapter as blind, the sum of one

thousand forty-one dollars ($1,041) per month.

(b) For a married couple, both qualifying for benefits under this chapter, and one of whom is blind, the sum of nine hundred eighty-two dollars ($982) per month.

(c) For an aged or disabled applicant or recipient, the sum of four hundred seventy-seven dollars ($477) per month.

(d) For a married couple both qualifying for benefits under this chapter as aged or disabled, the sum of eight hundred eighty-six dollars ($886) per month.

(e) For an aged or disabled applicant or recipient under subdivision (c) or for a married couple under subdivision (d) whose living arrangement prevents preparation of his or her or their meals at home shall be entitled to an allowance of fifty-one dollars ($51) per month for an individual and one hundred three dollars ($103) per month for a married couple in addition to any other amount he or she is entitled to under this chapter.

(f) For a disabled minor under 18 living with a parent or guardian or relative by blood or marriage, the sum of three hundred seventy-eight dollars ($378) per month.

(g) For a recipient in a nonmedical out-of-home care facility, the sum of five hundred thirty-nine dollars ($539) per month.

(h) For the personal and incidental needs of a person receiving care in a medical facility under the Medi-Cal Act, the sum of twenty-five dollars ($25) per month. In the event the Secretary of the Department of Health and Human Services agrees to administer a higher amount payment, the sum shall be thirty-five dollars ($35) per month.

(i) In the case of any individual, or couple, whose federal benefit received under Part A of Title XVI of the Social Security Act is reduced in accordance with Section 1612(a)(2)(A) of Public Law 92-603 because he lives in another person's household and receives support and maintenance-in-kind from such person, the appropriate grant level set forth in subdivision (a), (b), (c), or (d) of this section shall be reduced by the amount of the reduction in the federal benefit, subject to the provisions in Section 12204.

This subdivision shall be operative only during such time that such in-kind support and maintenance, under federal law, is treated as providing the basis for a lower payment standard rather than being treated as the receipt of unearned income.

This section shall become effective on January 1, 1984.

SEC. 3. Sections 1 and 2 of this act shall become effective only upon receipt of a formal approval by the Secretary of the United States Department of Health and Human Services to administer a higher payment level under subdivision (h) of Section 12200 of the Welfare and Institutions Code in the amount of thirty-five dollars ($35). The State Director of Social Services shall take all necessary actions in order to attempt to obtain approval for this higher payment level of the Secretary of the United States Department of Health and Human Services.

SEC. 4. Section 14005.12 of the Welfare and Institutions Code is amended to read:

14005.12. (a) For the purposes of Sections 14005.4 and 14005.7, the department shall establish the income levels for maintenance need at the lowest levels that reasonably permit medically needy persons to meet their basic needs for food, clothing, and shelter, and for which federal financial participation will still be provided under Title XIX of the federal Social Security Act. It is the intent of the Legislature that the income levels for maintenance need for medically needy aged, blind, and disabled adults, in particular, shall be based upon amounts that adequately reflect their needs.

(b) In the case of a single individual, the amount of the income level for maintenance per month shall be 80 percent of the highest amount that would ordinarily be paid to a family of two persons, without any income or resources, under subdivision (a) of Section 11450, multiplied by the federal financial participation rate.

(c) In the case of a family of two adults, the income level for maintenance per month shall be the highest amount that would ordinarily be paid to a family of three persons without income or resources under subdivision (a) of Section 11450, multiplied by the federal financial participation rate.

(d) For the purposes of Sections 14005.4 and 14005.7, for a person in long-term care, the amount considered as required for maintenance per month shall be computed pursuant to regulations which provide for the following purposes:

(1) Personal and incidental needs in the amount of not less than thirty-five dollars ($35) per month while a patient. The department may, by regulation, increase this amount as necessitated by increasing costs of personal and incidental needs. A long-term health care facility shall not charge an individual for the laundry services or periodic hair care specified in Section 14110.4.

(2) The upkeep and maintenance of the home.

(3) The support and care of his or her spouse, minor dependents and any disabled relative for whose support he or she has contributed regularly.

(4) If federal requirements permit such a person to own an automobile of greater value than is permitted in the case of recipients of aid under Chapter 3 (commencing with Section 12000), the department shall adopt the more liberal allowance in its rules and regulations.

(e) The income levels for maintenance per month, except as specified in subdivisions (b) through (d), shall be equal to the highest amounts that would ordinarily be paid to a family of the same size without any income or resources under subdivision (a) of Section 11450, multiplied by the federal financial participation rate.

(f) The "federal financial participation rate," as used in this section, shall mean 133⅓ percent, or such other rate set forth in Section 1903 of the federal Social Security Act, or its successor provisions.

(g) The income levels for maintenance per month shall not be decreased to reflect the presence in the household of persons receiving forms of aid other than Medi-Cal.

(h) When family members maintain separate residences, but eligibility is determined as a single unit under Section 14008, the income levels for maintenance per month shall be established for each household in accordance with subdivisions (b) to (g), inclusive. The total of these levels shall be the level for the single eligibility unit.

(i) The income levels for maintenance per month established pursuant to subdivisions (b) to (h), inclusive, shall be calculated on an annual basis, rounded to the next higher multiple of one hundred dollars ($100), and then prorated.

SEC. 5. Section 14110.4 is added to the Welfare and Institutions Code, to read:

14110.4. (a) All laundry services for all apparel, linen, garments, towels, and hospital gowns shall be provided by a skilled nursing or intermediate care facility at no cost to a recipient under this chapter. These laundry services shall be considered as part of the basic care provided by the facility under the daily rate provided for pursuant to this chapter. The director shall, if necessary, adjust the daily rate to provide for the costs of these services. A skilled nursing or intermediate care facility may, however, charge the patient a fee to provide special drycleaning or treatment for a garment needing this care, when the garment is owned by the patient and when the regular laundry service is not appropriate.

(b) A skilled nursing or intermediate care facility shall provide a periodic hair trim as part of its care for all patients who are recipients under this chapter. This service shall be included as part of the daily rate provided for pursuant to this chapter. The director shall, if necessary, adjust the daily rate to provide for the costs of these services. A skilled nursing or intermediate care facility may, however, charge a fee for beauty shop services for patients who request special treatments or styling of their hair.

(c) The director shall seek all federal funds available for implementation of this section.

SEC. 6. The sum of one million six hundred ninety-two thousand five hundred dollars ($1,692,500) is hereby appropriated from the General Fund to the Health Care Deposit Fund for the purposes of implementing Section 4 of this act.

SEC. 7. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1622

An act to add Section 14105.9 to, and Article 6.1 (commencing with Section 14195) to Chapter 7 of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 14105.9 is added to the Welfare and Institutions Code, to read:

14105.9. Whenever the department receives an application to add a drug to the formulary which is a different dosage form, or strength of a drug product which is listed in the formulary, the director may add the product to the formulary without review by the Medical Therapeutics and Drug Advisory Committee, and the addition shall be deemed to comply with the requirements of the California Administrative Procedures Act.

SEC. 2. Article 6.1 (commencing with Section 14195) of Chapter 7 of Part 3 of Division 9 is added to the Welfare and Institutions Code, to read:

Article 6.1. Medi-Cal Open Drug Formulary

14195. It is the intent of the Legislature to provide medical assistance, including prescribed drugs, to the state's eligible poor in a manner consistent with the provisions of the federal Medicaid Act, provided for under Title XIX of the Social Security Act (42 U.S.C. Sec. 1396 et seq.). It is the further intent of the Legislature to test the effectiveness of an open formulary drug therapy program, in conjunction with the use of a therapeutic system of drug utilization review, in reducing the costs to the state of providing acute and long-term care services. In order to help achieve this goal, the Legislature hereby establishes an open drug formulary under the Medi-Cal program wherein a beneficiary may receive the most appropriate, most effective, and most cost-efficient drug available for the treatment of his or her illness.

14195.1. The open drug formulary, as established pursuant to this article, shall be implemented in one pilot project site. The site shall be located in a northern California test area, comprised of Sacramento and Placer Counties which includes urban, suburban, and rural settings.

14195.2. (a) For purposes of this article, a provider may be reimbursed for any drug prescribed to a beneficiary if the drug is prescribed by a licensed provider within the scope of his or her practice, as defined by law, and if the drug is approved for use by the federal Food and Drug Administration.

(b) Controlled substances shall be prescribed pursuant to the requirements of federal laws and regulations and the requirements set forth in Chapter 4 (commencing with Section 11150) of Division 10 of the Health and Safety Code.

(c) For purposes of this article, there shall be no requirement that prior authorization be obtained by a provider before prescribing any drug to a beneficiary if the provider determines the drug to be a medical necessity in the treatment of the beneficiary.

(d) For purposes of this article, a drug determined to be a medical necessity shall be one whose use in the treatment is reasonable and consistent with the objectives of the federal Medicaid Act as set forth in Title XIX of the Social Security Act (42 U.S.C. Sec. 1396 et seq.).

14195.3. A Medi-Cal Therapeutic Drug Utilization and Review Committee shall be established in the pilot test area, composed of 16 members each to be appointed in the following manner:

(a) The Governor shall appoint two representatives from the State Department of Health Services and two representatives from schools of pharmacy.

(b) The Governor, the Speaker of the Assembly, and the Senate Rules Committee shall each appoint one representative from the following groups:

(1) Pharmacists.

(2) Physicians.

(3) Drug manufacturers.

(4) Medi-Cal beneficiaries.

The members of the committee shall select one of its members to act as chairperson.

14195.4. Members of the committee shall be provided with per diem and reimbursed for travel and expenses incurred while performing works of the committee.

14195.5. The Medi-Cal Therapeutic Drug Utilization and Review Committee shall set standards for therapeutic utilization review and control to be implemented either by the department or through a private contractor. The committee shall be charged with all of the following responsibilities:

(a) Developing policy for monitoring and control of drug utilization based on therapeutic effectiveness.

(b) Overseeing the establishment of a computer-based information system that will provide timely information on drug prescription and consumption and that will be capable of tracking by drug, by illness, by beneficiary, and by provider. In addition, this system shall include information on acute or long-term care admissions related to under or inappropriate utilization of drugs.

(c) Establishing standards for dosage, duration, and effectiveness of medications according to particular diagnoses.

(d) Setting standards to serve as guidelines on misprescribing, overprescribing, and contraindicated drug use.

14195.6. The department shall develop procedures to implement the utilization control standards established by the Medi-Cal

Therapeutic Drug Utilization and Review Committee pursuant to Section 14195.5. The procedures shall include an examination of at least the following aspects of prescription services claims:

(a) Compatibility of medication to diagnosis.

(b) Overprescribing of drugs.

(c) Prescription of contraindicated or noncompatibility drugs.

(d) Drug underutilization.

14195.7. The provisions of this article shall not apply to any services being rendered by a provider in conjunction with any capitated rate contract or primary care case management contract negotiated pursuant to this chapter or Chapter 8 (commencing with Section 14200) by either the department or the commission.

14195.75. In the event that AB 3888 is enacted during the 1983–84 Regular Session, Sections 14195.3, 14195.4, 14195.5, 14195.6, and 14195.7 of the Welfare and Institutions Code, as contained in this article, shall not become effective, and it is the intent of the Legislature that a Therapeutic Drug Utilization and Review Program and Committee as described in AB 3888, shall be implemented in the pilot program established by this article.

14195.8. The department shall submit to the Legislature its plans for implementation of the pilot projects by March 31, 1985, and shall commence operation of these projects by July 1, 1985.

14195.9. The department shall, utilizing the request for proposal process, select a contractor on a bid basis to provide an evaluation of the pilot projects established under this article. The report shall be submitted to the Assembly Committee on Aging and Long-Term Care by July 1, 1988. The report shall include tracking and analysis of 25 drugs commonly used by elderly and disabled persons. The report shall also include an analysis of the effectiveness of an open formulary-therapeutic drug utilization review system on minimizing acute care and long-term care admissions.

SEC. 3. The department shall adopt any regulations as are necessary to implement the provisions of Section 3 of this act. These regulations shall be adopted as emergency regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and, for the purposes of the Administrative Procedure Act, shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare and shall not be subject to the review, approval, modification, or repeal by the Office of Administrative Law pursuant to any provisions of Chapter 3.5.

Any provision of this act which is in conflict with any federal statute or regulation shall be inapplicable to the extent of the conflict, but the remainder of the provisions shall be unaffected to the extent no conflict exists.

The department shall seek all federal waivers necessary to implement the provisions of this act. The provisions for which federal waivers cannot be obtained shall not be implemented, but provisions for which waivers are either obtained or found to be unnecessary

shall be unaffected by the inability to obtain federal waivers for the other provisions.

If any provisions of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

CHAPTER 1623

An act to add and repeal Section 9726 of the Welfare and Institutions Code, relating to the State Long-Term Care Ombudsman, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. It is the intent of the Legislature, in enacting this measure, that a statewide, toll-free telephone hotline be available in one location to receive calls and provide responses as appropriate, including referrals, concerning crises in community care facilities and long-term health care facilities. The Department of Aging shall consider alternative and innovative approaches in implementing the toll-free hotline, including contracting with individuals to staff the hotline.

SEC. 2. Section 9726 is added to the Welfare and Institutions Code, to read:

9726. (a) The Office of the State Long-Term Care Ombudsman in the Department of Aging shall estalish a toll-free telephone hotline in Sacramento, to receive telephone calls concerning any crises discovered by any person in a community care facility, including family day care homes for children licensed under Chapter 3.6 (commencing with Section 1597.50) of Division 2 of the Health and Safety Code, or in a long-term health care facility.

The telephone hotline established under this section shall be operated to include at least all of the following:

(1) The telephone hotline shall be available 24 hours a day, seven days a week.

(2) The operator shall respond to a crisis call by contacting the appropriate office, agency, or individual in the local community in which the crisis occurred.

(3) The toll-free hotline telephone number shall be posted conspicuously in either the facility foyer, lobby, residents' activity room, or other conspicuous location easily accessible to residents in each licensed facility by the licensee. The Office of the State Long-Term Care Ombudsman shall issue, in conjunction with the

Health Services, guidelines concerning the posting of the toll-free number. The posting shall, at a minimum, include the purpose of the hotline number.

(b) The Office of the State Long-Term Care Ombudsman shall respond to hotline telephone calls involving adult residents of community care facilities and residents of long-term health care facilities in a manner consistent with the federal Older Americans Act and the provisions of this chapter. As a response to hotline telephone calls concerning community care facilities for children, including family day care homes for children, the office shall refer the matter or the caller, or both, to the appropriate county child protective services agency or local law enforcement agency or to the State Department of Social Services. Neither the State Department of Aging nor the Office of the State Long-Term Care Ombudsman may respond beyond providing information and referrals to hotline callers concerning community care facilities for children.

(c) The toll-free telephone shall be staffed in a manner consistent with available resources in the department. The department may contract for the services of individuals to staff the telephone hotline. The department shall seek to provide opportunities for older persons to be employed to staff the hotline. The State Department of Health Services and the State Department of Social Services, and other appropriate departments, shall make available to the department and the Office of the State Long-Term Care Ombudsman training and technical assistance as needed.

(d) The State Long-Term Care Ombudsman shall submit a report to the Legislature by July 1, 1987, including all of the following:

(1) An assessment of the effectiveness of the hotline.

(2) A summary of the significant problems, if any, encountered in establishment and operation of the hotline, and their resolution.

(3) Recommendations for the continuation of the hotline.

(e) This section shall become inoperative on July 1, 1988, and, as of January 1, 1989, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. The sum of seventy-five thousand dollars ($75,000) is hereby appropriated from the General Fund to the Department of Aging, in order to implement Section 9726 of the Welfare and Institutions Code. Future funding for the provisions of Section 9726 of the Welfare and Institutions Code shall be subject to the appropriations made in the Budget Act.

CHAPTER 1624

An act to repeal and add Section 14571 of the Welfare and Institutions Code, relating to day care.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 14571 of the Welfare and Institutions Code is repealed.

SEC. 2. Section 14571 is added to the Welfare and Institutions Code, to read:

14571. The department, in consultation with the Association of Adult Day Services, shall develop a rate methodology. The methodology shall take into consideration all allowable costs associated with providing adult day health care services and shall examine, at a minimum the use of adders to the base rate, the method of billing, and the reimbursement for the initial assessment. In order to determine adult day health care costs, a uniform data collection system shall be developed by January 1, 1985. The cost report from their previous fiscal year shall be submitted by adult day health care centers to the department by April 1, 1985. The completed rate methodology shall be delivered to the Legislature by January 1, 1986, for review. If adult day health care centers submit the required cost reports later than April 1, 1985, the department's deadline for submission of a rate methodology shall be extended for an equivalent period of time. Once a methodology has been approved by the department, it shall be the basis of future annual rate reviews.

Until a reimbursement methodology is implemented for fiscal audit purposes, adult day health centers shall be reimbursed by the state at the maximum approved center daily Medi-Cal rate or actual uncompensated costs, whichever is less. Costs shall be determined based on the per diem costs incurred in the provision of required services without regard to any component amounts.

Payment shall be for services provided during the preceding month in accordance with an approved individualized plan of care. Until a rate methodology is established and approved by the Legislature, billing shall be submitted directly to the department. Additionally, the department shall establish a reasonable rate of reimbursement for the initial assessment.

Nothing in this section shall preclude the department from entering into specific prospective budgeting and reimbursement agreements with providers.

CHAPTER 1625

An act to amend Sections 1420, 1428, and 1432 of, and to add Sections 1422.7, 1432.1, and 1534.5 to, the Health and Safety Code, and to add Sections 9726.1 and 9732 to the Welfare and Institutions Code, relating to health.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 1420 of the Health and Safety Code is amended to read:

1420. (a) Upon receipt of a complaint, the state department shall assign an inspector to make a preliminary review of the complaint and shall notify the complainant of the name of the inspector. Unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection or investigation within 10 working days of the receipt of the complaint. In either event, the complainant shall be promptly informed of the state department's proposed course of action. Upon the request of either the complainant or the state department, the complainant or his or her representative, or both, may be allowed to accompany the inspector to the site of the alleged violations during his or her tour of the facility, unless the inspector determines that the privacy of any patient would be violated thereby.

When conducting an onsite inspection or investigation pursuant to this section, the state department shall collect and evaluate all available evidence and may issue a citation based upon, but not limited to, any or all of the following:

(1) Observed conditions.

(2) Statements of witnesses.

(3) Facility records.

(b) Upon being notified of the state department's determination as a result of the inspection or investigation, a complainant who is dissatisfied with the state department's determination, regarding a matter which would pose a threat to the health, safety, security, welfare, or rights of a resident, shall be notified by the state department of the right to an informal conference, as set forth in this section, and, may, within five business days after receipt of the notice, notify the director in writing of his or her request for an informal conference with the designee of the director for the county in which the long-term health care facility which is the subject of the complaint is located. The long-term health care facility may participate as a party in this informal conference. The director's designee shall notify the complainant and licensee of his or her determination within 10 working days after the informal conference

and shall apprise the complainant and licensee in writing of the appeal rights provided in subdivision (c).

(c) If the complainant is dissatisfied with the determination of the director's designee in the county in which the facility is located, the complainant may, within five days after receipt of this determination, notify in writing the Deputy Director of the Licensing and Certification Division of the state department, who shall review the facts that led to both determinations. Based upon this review, the Deputy Director of the Licensing and Certification Division of the state department shall make his or her own determination and notify the complainant and the facility within 30 days.

(d) Any citation issued as a result of a conference or review, as described in subdivision (b) or (c), shall be issued and served upon the facility within three days of the final determination, excluding Saturday, Sunday, and holidays, unless the licensee agrees in writing to an extension of this time. Service shall be effected either personally or by registered or certified mail. A copy of the citation shall also be sent to each complainant.

SEC. 2. Section 1428 of the Health and Safety Code is amended to read:

1428. (a) If a licensee desires to contest a class "AA," a class "A" citation, or a citation alleging a class "B" violation and either a class AA or class A violation or the proposed assessment of a civil penalty therefor, the licensee shall within five business days after service of the citation notify the director in writing of his or her request for citation review conference with the designee of the director for the county in which the cited long-term health care facility is located. The director's designee shall hold, within five business days from the receipt of the request, a citation review conference, at the conclusion of which he or she may affirm, modify, or dismiss the citation or proposed assessment of a civil penalty. If the director's designee affirms, modifies, or dismisses the citation or proposed assessment of a civil penalty, he or she shall state with particularity in writing his or her reasons for that action, and shall immediately transmit a copy thereof to each party to the original complaint. If the licensee desires to contest a decision made after the citation review conference, the licensee shall inform the director in writing within five business days after he or she receives the decision by the director's designee. If the licensee fails to notify the director in writing that he or she intends to contest the citation or the proposed assessment of a civil penalty therefor or the decision made by a director's designee after a citation review conference within the time specified in this subdivision, the citation or the proposed assessment of a civil penalty or the decision by a director's designee after a citation review conference shall be deemed a final order of the state department and shall not be subject to further administrative review.

(b) If a licensee notifies the director that he or she intends to contest a class "AA," a class "A" citation, or a citation alleging a class

"B" violation and either a class "AA" or class "A" violation the director shall immediately notify the Attorney General. Upon notification, the Attorney General shall promptly take all appropriate action to enforce the citation and recover the civil penalty prescribed thereon, and shall take such other action as the Attorney General shall deem appropriate, in the court of competent jurisdiction for the county in which the long-term health care facility is located.

(c) If a licensee desires to contest a class "B" citation or the proposed assessment of a civil penalty therefor, the licensee shall within five business days after service of the citation (1) notify the director in writing of his or her request for a citation review conference with the designee of the director for the county in which the cited long-term health care facility is located; or (2) notify the director in writing of the licensee's intent to adjudicate the validity of the citation in the municipal court in the county in which the long-term health care facility is located. If requested by the licensee, the director's designee shall hold, within five business days from the receipt of the request a citation review conference, at the conclusion of which he or she may affirm, modify, or dismiss the citation or the proposed assessment of a civil penalty. If the director's designee affirms, modifies, or dismisses the citation or proposed assessment of a civil penalty, he shall state with particularity in writing his or her reasons for that action and shall immediately transmit a copy thereof to each party to the original complaint. If the licensee desires to contest a decision made after the citation review conference, the licensee shall inform the director in writing within five business days after he or she receives the decision by the director's designee. In order to perfect a judicial appeal of a contested citation, a licensee shall file a civil action in the municipal court in the county in which the long-term health care facility is located. The action shall be filed no later than 60 calendar days after a licensee notifies the director that he or she intends to contest a citation, or, in the event a citation review conference is held, no later than 60 calendar days after a licensee notifies the director of his or her intent to contest the decision of the director's designee. If a judicial appeal is prosecuted under the provisions of this subdivision, the state department shall have the burden of establishing by a preponderance of the evidence that (1) the alleged violation did occur, (2) the alleged violation met the criteria for the class of citation alleged, and (3) the assessed penalty was appropriate. The state department shall also have the burden of establishing by a preponderance of the evidence that the assessment of a civil penalty should be upheld. If a licensee fails to notify the director in writing that he or she intends to contest the citation or the decision made by the director's designee within the time specified in this subdivision, or fails to file a civil action within the time specified in this subdivision, the citation or the decision by the director's designee after a citation review conference shall be deemed a final order of the state department and shall not be subject

to further administrative review. If a licensee prosecutes a judicial appeal of a contested citation or the assessment of a civil penalty, no civil penalty shall be due and payable unless and until the appeal is terminated in favor of the state department.

(d) The person designated by the director to conduct the citation review conference shall not be an employee of the state department who is regularly assigned to the district licensing office from which the citation originated.

Where the state department issues a citation as a result of a complaint or regular inspection visit, and a resident or residents are specifically identified in a citation by name as being specifically affected by the violation, then the following persons may attend the citation review conference.

(1) The complainant and his or her designated representative.

(2) A personal health care provider, designated by the resident.

(3) A personal attorney, only if the long-term health care facility has an attorney present.

(4) Any person representing the office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code.

Where the state department determines that residents in the facility were threatened by the cited violation but does not name specific residents, any person representing the office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code, and a representative of the residents or family council at the facility may participate to represent all residents. In this case, these representatives shall be the sole participants for the residents in the conference. The residents council shall designate which representative will participate.

The complainant, affected resident, or their designated representatives shall be notified by the state department of the conference and their right to participate. The director's designee shall notify the complainant or his or her designated representative and the affected resident or his or her designated representative, of his or her determination based on the citation review conference.

(f) In assessing the civil penalty for a violation, all relevant facts shall be considered, including, but not limited to:

(1) The probability and severity of the risk which the violation presents to the patient's mental and physical condition.

(2) The patient's medical condition.

(3) The patient's mental condition and his or her history of mental disability.

(4) The good-faith efforts exercised by the facility to prevent the violation from occurring.

(5) The licensee's history of compliance with regulations.

(g) Except as otherwise provided in this subdivision, an assessment of civil penalties for a class "A" or class "B" violation shall be trebled and collected for a second or subsequent violation

occurring within any 12-month period, if a citation was issued and a civil penalty assessed for the previous violation occurring within the period, without regard to whether the action to enforce the previous citation has become final. However, the increment to the civil penalty required by this subdivision shall not be due and payable unless and until the previous action has terminated in favor of the state department.

If the class "B" violation is a patient's rights violation, as defined in subdivision (d) of Section 1424, it shall not be trebled unless the state department determines the violation has a direct or immediate relationship to the health, safety, security, or welfare of long-term health care facility residents.

(h) The director shall prescribe procedures for the issuance of a notice of violation with respect to violations having only a minimal relationship to safety or health.

(i) Actions brought under the provisions of this chapter shall be set for trial at the earliest possible date and shall take precedence on the court calendar over all other cases except matters to which equal or superior precedence is specifically granted by law. Times for responsive pleading and for hearing any such proceeding shall be set by the judge of the court with the object of securing a decision as to subject matters at the earliest possible time.

(j) If the citation is dismissed or reduced, the state department shall take action immediately to ensure that the public records reflect in a prominent manner that the citation was dismissed or reduced.

(k) Upon a licensee notifying the director of its intent to contest one or more citations or decisions made following a citation review conference where the total penalties do not exceed fifteen thousand dollars ($15,000), either the state or the licensee may elect to submit the matter to binding arbitration. The parties shall agree upon an arbitrator designated from the American Arbitration Association in accordance with the association's established rules and procedures. The arbitration hearing shall be set within 45 days of the petitioner's election, but in no event less than 28 days from the date of selection of an arbitrator. The arbitration hearing may be continued up to 15 additional days if necessary at the arbitrator's discretion. The decision of the arbitrator shall be based upon substantive law and shall be binding on all parties, subject to judicial review. This review shall be limited to whether there was substantial evidence to support the decision of the arbitrator.

The arbitrator shall determine which of the parties are financially liable for arbitration costs based upon the position each took at the commencement of the arbitration proceedings compared to the decision of the arbitrator.

The retention of, renewal of, or application for, a license to operate a skilled nursing facility or intermediate care facility shall, for purposes of the administration of this chapter, be deemed a written agreement to arbitrate contested citations within the meaning of

Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure. Without extending the time for commencement of these hearings, the provisions of Section 1283.05 of the Code of Civil Procedure shall be applicable to all proceedings to arbitrate citations issued pursuant to this chapter, except that depositions may be noticed and taken without prior approval of the arbitrator.

Penalties paid on violations under this chapter shall be applied against the state department's accounts to offset any costs incurred by the state pursuant to this subdivision. Any costs or penalties assessed pursuant to the provisions of this chapter shall be paid within 30 days of the date the decision becomes final. If a facility does not comply with this provision, the state department shall withhold any payment under the Medi-Cal program until the debt is satisfied. No payment shall be withheld if the state department determines that it would cause undue hardship to the facility or to patients of the facility.

SEC. 3. Section 1422.7 is added to the Health and Safety Code, to read:

1422.7. The state department shall provide the office, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code, with copies of inspection reports for long-term health care facilities upon request. The state department shall provide the office with copies of all class "AA," "A," and "B" citations issued.

SEC. 4. Section 1432 of the Health and Safety Code is amended to read:

1432. (a) No licensee shall discriminate or retaliate in any manner against any patient or any employee in its long-term health care facility on the basis or for the reason that the patient or the employee or any other person has presented a grievance or complaint, or has initiated or cooperated in any investigation or proceeding of any governmental entity relating to care, services, or conditions at that facility. A licensee who violates this section is subject to a civil penalty of no more than ten thousand dollars ($10,000), to be assessed by the director and collected in the manner provided in Section 1430.

(b) Any attempt to expel a patient from a long-term health care facility, or any type of discriminatory treatment of a patient by whom, or upon whose behalf, a grievance or complaint has been submitted, directly or indirectly, to any governmental entity or received by a facility administrator or any proceeding instituted under or related to this chapter within 180 days of the filing of the complaint or the institution of the action, shall raise a rebuttable presumption that the action was taken by the licensee in retaliation for the filing of the complaint.

(c) Any attempt to terminate the employment, or other discriminatory treatment, of any employee who has presented a grievance or complaint or has initiated, participated, or cooperated in any investigation or proceeding of any governmental entity as specified in subdivision (a), and where the facility or licensee had

knowledge of the employee's initiation, participation, or cooperation, shall raise a rebuttable presumption that the action was taken by the licensee in retaliation if it occurs within 120 days of the filing of the grievance or complaint, or the institution of the action.

(d) Presumptions provided for in subdivisions (b) and (c) shall be presumptions affecting the burden of producing evidence as provided in Section 603 of the Evidence Code.

(e) Where the civil penalty assessed is one thousand dollars ($1,000) or less, the violation shall be issued and enforced in the same manner as a class "B" violation, except in no case shall the penalty be trebled. Where the civil penalty assesed is in excess of one thousand dollars ($1,000), the violation shall be issued and enforced in the same manner as a class "A" violation, except in no case shall the penalty be trebled.

(f) Any person who willfully violates this section is guilty of an infraction punishable by a fine of not more than ten thousand dollars ($10,000).

(g) A licensee who violates this section is subject to a civil penalty or a criminal fine, but not both.

(h) Each long-term health care facility shall prominently post in a facility location accessible to staff, patients, and visitors written notice of the right to request an inspection pursuant to Section 1419, the procedure for doing so, including the right to remain anonymous, and the prohibition against retaliation.

SEC. 4.5. Section 1432.1 is added to the Health and Safety Code, to read:

1432.1. No licensee shall be cited for any violation caused by any person licensed pursuant to the Medical Practice Act (Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code) if the person is independent of, and not connected with, the licensee and the licensee shows that he or she has exercised reasonable care and diligence in notifying these persons of their duty to the patients in the licensee's long-term health care facility.

SEC. 5. Section 1534.5 is added to the Health and Safety Code, to read:

1534.5. The state department shall provide the office, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code, with copies of inspection reports for community care facilities upon request.

SEC. 6. Section 9726.1 is added to the Welfare and Institutions Code, to read:

9726.1. The office, as defined in subdivision (c) of Section 9701, may do any or all of the following:

(a) Advise the public of any inspection report, statements of deficiency, and plans of correction for any long-term care facilities within its service area.

(b) Promote visitation programs to long-term health care facilities within its service area.

(c) Establish and assist in the development of resident, family, and

friends' councils.

(d) Sponsor other community involvement in long-term health care facilities.

(e) Present community education and training programs to long-term health care facilities, human service workers, families, and the general public about long-term care and residents' rights issues.

(f) Those programs created under the provisions of this section which are held in a facility shall be developed in consultation with the facility. If the facility and the ombudsman cannot agree on these programs, the State Long-Term Care Ombudsman may assist in resolving the dispute.

SEC. 7. Section 9732 is added to the Welfare and Institutions Code, to read:

9732. Any person who willfully interferes with any lawful action of the office, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code, is subject to a civil penalty of no more than one thousand dollars ($1,000) to be assessed by the Director of Aging who shall initiate the action upon the request of the office to collect the penalties in the jurisdiction in which the facility is located.

SEC. 8. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 8.5. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 9. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1626

An act to add and repeal Chapter 4.7 (commencing with Section 9390) of Division 8.5 of the Welfare and Institutions Code, relating to community care facilities, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. The Legislature finds and declares that there is an increasing recognition of the need to develop quality, cost-effective and less restrictive alternatives to institutional care, and that attention has turned to the community-based licensed community care facility as a vital link in the continuum of long-term care. The community care facility is a less expensive, less restrictive alternative to the licensed skilled nursing facility and intermediate care facility, which needs to be maintained and supported.

It is the intent of the Legislature to explore the use of community care facilities as an alternative to moving frail, elderly people into more costly and restrictive skilled nursing and intermediate care facilities by establishing the Community Care Facility Demonstration Project for the Elderly. It is also the intent of the Legislature that this project utilize a case management system which will link residents of community care facilities to the full range of available community services and that program participants be:

(a) At-risk clients who meet Medi-Cal criteria for admission to an intermediate care facility or skilled nursing facility.

(b) Able to benefit from a less restrictive care setting.

(c) Able to respond to care as called for by this project.

SEC. 2. Chapter 4.7 (commencing with Section 9390) is added to Division 8.5 of the Welfare and Institutions Code, to read:

CHAPTER 4.7. COMMUNITY CARE FACILITY DEMONSTRATION PROJECT FOR THE ELDERLY

9390. (a) There is hereby established the Community Care Facility Demonstration Project for the Elderly in accordance with the provisions of this section. The Multipurpose Senior Services Program shall administer the Community Care Facilities Demonstration Project for the Elderly. The Multipurpose Senior Services Program may contract with the State Department of Health Services for the utilization of funds from the Health Care Deposit Fund upon determination that the demonstration project qualifies for federal financial participation as stipulated in subdivision (e).

(b) The Multipurpose Senior Services Program shall contract with two local Multipurpose Senior Services Program sites to serve as demonstration sites. One site shall be in the northern and one in the southern part of the state. The sites shall be selected through a request for proposal process.

(c) The project shall serve a selected number of frail elderly persons, whose current medical assessment does not indicate the need for long-term intermediate or skilled nursing care . "Frail elderly persons," for purposes of this chapter, means those persons

as defined in Section 9111 who meet current Medi-Cal criteria for being "certified" or "certifiable" for admission into intermediate or skilled nursing care facilities, and whom a physician has determined may remain in a community care facility with services as provided for by this section. Participating facilities shall be limited to those licensed community care facilities serving adults, as defined in Section 80001 of Title 22 of the California Administrative Code. During the demonstration project a total of 120 persons at any one time shall be served in the two local Multipurpose Senior Services Program sites selected for participation under this chapter. Personal care services shall be purchased through the use of funds appropriated for purposes of Chapter 7 (commencing with Section 14000) of Part 3 of Division 9. Participation by a person or a community care facility shall be voluntary. Personal care provided pursuant to this chapter shall supplement, and not replace, personal care provided by community care facilities pursuant to statutory and regulatory requirements which are required to be met in order to obtain and maintain a community care facility license. This supplemental care shall be provided only when the level of care needed by a person participating under this chapter exceeds that which can be provided by the community care facility pursuant to existing statutory and regulatory requirements which are required to be met in order to obtain and maintain a community care facility license. Determination as to the necessary level of care shall be based on an assessment of need performed initially, and at six-month intervals thereafter by the case manager.

(d) The pilot project shall be operated for a period of three years. The Multipurpose Senior Services Program shall submit an evaluation of this project to the Legislature not later than July 1, 1988. The evaluation shall do all of the following:

(1) Describe the service providers and the services they provide and compare them to services provided to persons within skilled nursing, intermediate care, and nonmedical community care facilities and persons receiving home health services while residing in their own homes.

(2) Describe the program participants and compare them to those residing in skilled nursing, intermediate care, and nonmedical community care facilities and persons receiving home health services while in their own homes.

(3) Contain a description of the criteria used to select participants and compare them to criteria used to determine who would be more suitably cared for in skilled nursing or intermediate care facilities.

(4) Compare the total governmental costs incurred for persons participating in this project with the costs of care provided by skilled nursing facilities.

(5) Assess the extent to which the demonstration project, in fact, did delay or prevent care in an intermediate or skilled nursing facility and the cost effectiveness of the project.

(e) Implementation of the demonstration project is dependent

upon the availability of federal financial participation for the services to be provided.

Implementation of the project shall be subject to receipt of required waivers or waiver amendments. Use of existing federal waivers and existing program authority shall be the first priority for implementation of this chapter. The Multipurpose Senior Services Program shall seek new waivers from the federal government if implementation cannot be carried out through existing waivers or existing categorical programs. The Secretary of the Health and Welfare Agency shall have the authority to waive existing state statutes or regulations at the request of the Multipurpose Senior Services Program that would prohibit or restrict the ability of the Multipurpose Senior Services Program to provide for the services authorized by this section.

(f) This chapter shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute chaptered prior to January 1, 1989, extends or deletes that date. This demonstration project shall not be extended or expanded unless conclusive evidence has been presented to the Legislature showing that it has been cost-effective and can be replicated.

SEC. 3. Notwithstanding Section 13340 of the Government Code, the sum of five hundred ninety-five thousand dollars ($595,000) is hereby appropriated from the General Fund and shall be made available for encumbrance, without regard to fiscal years to the Health and Welfare Agency in order to implement the provisions of this act.

CHAPTER 1627

An act to add Section 1250.4 to the Health and Safety Code, relating to health facilities.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 1250.4 is added to the Health and Safety Code, to read:

1250.4. (a) The Legislature finds and declares that many persons who have progressively disabling disorders, such as Alzheimer's disease, need services in a secure environment.

It is, therefore, the intent of the Legislature that skilled nursing services provided for these persons be provided in a distinct part of a freestanding skilled nursing facility.

(b) Freestanding skilled nursing facilities may provide services in a secure environment for persons with progressively disabling diseases, as described in subdivision (c), in a distinct part of the

facility. This distinct part shall be a designated area of the skilled nursing facility or the entire skilled nursing facility.

(c) "Persons with progressively disabling diseases," for the purposes of this section, means persons with Alzheimer's disease, Huntington's Chorea, or Olivopontocerebellar Ataxia (OPCA) disorders and who exhibit behavior problems such as combativeness, verbal or behavioral abusiveness or other acute or chronic disabling disorders, or wandering, which are not suitable for placement and care in a skilled nursing facility which does not provide a secure environment.

(d) "Secure environment," as used in this section, means any skilled nursing facility or distinct part of a skilled nursing facility which restricts egress from the building, a distinct part of the building, or the grounds of the building, in a manner approved by the State Fire Marshal and the state department.

(e) Nothing in this section permits the placement of any person with a progressively disabling disease in a facility providing a secure environment that is not otherwise authorized under other provisions of law.

This section shall become operative July 1, 1985.

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

CHAPTER 1628

An act to add Section 1435.5 to the Health and Safety Code, and to add Section 14134.6 to the Welfare and Institutions Code, relating to long-term health care facilities.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 1435.5 is added to the Health and Safety Code, to read:

1435.5. (a) When a long-term health care facility has its license suspended or revoked, has been placed in receivership, suffers a criminal conviction, is issued an injunction, or has federal sanctions imposed against it, the director shall issue a press release to newspapers and other media in the city, county, or city and county in which the facility is located, explaining the action taken and the

conditions upon which the action is predicated, along with any additional detail the director deems appropriate. The director shall review and consider issuance of a press release, as described above, if there are uncontested citations of the long-term health care facility, or if an accusation for license revocation or suspension is filed against the facility, or if the state department takes other action to protect the residents of the facility.

(b) The state department shall develop guidelines concerning the issuance of press releases pursuant to this section. These guidelines shall include criteria for distribution of the releases to a variety of media for purposes of yielding the best coverage. Criteria shall also be developed in the guidelines with respect to the content of the release.

(c) The state department shall also develop guidelines for a broader policy of press releases, including, but not limited to, issuing releases on regulatory developments, volunteer opportunities, how to select a nursing home, where to report complaints, and awards for excellent facilities and programs, and may issue press releases pursuant to the provisions of these guidelines.

SEC. 2. Section 14134.6 is added to the Welfare and Institutions Code, to read:

14134.6. Long-term health care facilities may charge a resident only the actual price paid by the facility for goods and services actually supplied to the resident and may not charge for hospital gowns. Facilities in the original contract shall inform residents of charges for personal laundry and drycleaning, haircuts, beautician services, manicures, pedicures, phone calls, television rental, and any other services payable by the resident. The facility shall also inform residents of any changes in those charges, and shall indicate on a resident's bill every good, product, service, and medication for which the resident is being charged, including, if the patient is a senior citizen, whether or not a senior discount was obtained on the medication.

CHAPTER 1629

An act to amend Section 1422 of, and to add Section 1422.5 to, the Health and Safety Code, relating to health care facilities.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 1422 of the Health and Safety Code is amended to read:

1422. (a) The Legislature finds and declares that it is the public policy of this state to assure that long-term health care facilities

provide the highest level of care possible. The Legislature further finds that inspections are the most effective means of furthering this policy. It is not the intent of the Legislature by the amendment of subdivision (b) enacted by Chapter 1597 of the Statutes of 1982 to reduce in any way the resources available to the state department for inspections, but rather to provide the state department with the greatest flexibility to concentrate its resources where they can be most effective.

(b) Without providing notice of these inspections, the state department shall, in addition to any inspections conducted pursuant to complaints filed pursuant to Section 1419, conduct inspections annually, except with regard to those facilities which have no class AA, class A, or class B violations in the past 12 months. The state department shall also conduct inspections as may be necessary to assure the health, safety, and security of patients in long-term health care facilities. Every facility shall be inspected at least once every two years.

The state department shall submit to the federal Department of Health and Human Services on or before July 1, 1985, for review and approval, a request to implement a three-year pilot program designed to lessen the predictability of the long-term health care facility inspection process. Two components of the pilot program shall be (1) the elimination of the present practice of entering into a one-year certification agreement, and (2) the conduct of segmented inspections of a sample of facilities with poor inspection records, as defined by the state department. At the conclusion of the pilot project, an analysis of both components shall be conducted by the state department to determine effectiveness in reducing inspection predictability and the respective cost benefits. Implementation of this pilot project is contingent upon federal approval. The state department shall report annually to the Legislature on the progress of the pilot project with a final report at the end of the third year

(c) Except as otherwise provided in subdivision (b), the state department shall conduct unannounced direct patient care inspections at least annually to inspect physician and surgeon services, nursing services, pharmacy services, dietary services, and activity programs of all the long-term health care facilities. Facilities evidencing repeated serious problems in complying with this chapter or a history of poor performance, or both, shall be subject to periodic unannounced direct patient care inspections during the inspection year. The direct patient care inspections shall assist the state department in the prioritization of its efforts to correct facility deficiencies.

(d) All long-term health care facilities shall report to the state department any changes in the nursing home administrator or the director of nursing services within 10 calendar days of the changes.

(e) Within 90 days after the receipt of notice of a change in the nursing home administrator or the director of nursing services, the

state department may conduct an abbreviated inspection of the long-term health care facilities.

SEC. 2. Section 1422.5 is added to the Health and Safety Code, to read:

1422.5. (a) The state department shall develop and establish a consumer information service system to provide updated and accurate information to the general public and consumers regarding long-term care facilities in their communities. The consumer information service system shall include, but need not be limited to, all of the following elements:

(1) An on-line inquiry system accessible through a statewide toll-free "800" number.

(2) Long-term health care facility profiles, with data on services provided, a history of citations and complaints for the last two full survey cycles, and a summary of care trends and change of ownership covering the most recent four-year period.

Information regarding complaints for which an onsite inspection is required pursuant to Section 1420 shall include the action taken, the date of action, the response of the facility, the current status of the action, and the results of any appeals.

(b) Where feasible, the state department shall interface the consumer information service system with its proposed Automated Certification and Licensure Information Management System.

(c) It is the intent of the Legislature that the state department, in developing and establishing the system pursuant to subdivision (a), maximize the use of available federal funds.

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

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1630

An act to amend Sections 50512 and 50533.2 of, to add Sections 50533.4 and 50533.5 to, to add Chapter 5.5 (commencing with Section 51260) to Part 3 of Division 31 of, and to repeal Sections 50533.4 and 50533.5 of, the Health and Safety Code, relating to housing, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 50512 of the Health and Safety Code is amended to read:

50512. The department may provide technical assistance and aid to governmental agencies, nonprofit corporations, and housing sponsors for the purpose of providing the benefits of assisted housing to very low income households and persons and families of low or moderate income which are handicapped or in which the head of household has been previously confined to institutional care. Subject to the availability of staff resources, the department shall coordinate its technical assistance activities and loan and grant programs in order to increase participation and understanding of those activities and programs by public and private groups and individuals seeking to expand or improve housing opportunities for the elderly or handicapped.

SEC. 1.5. Section 50533.2 of the Health and Safety Code is amended to read:

50533.2. (a) The department shall administer the Senior Citizens' Shared Housing Program and select nonprofit organizations to establish or continue programs that assist seniors in finding other seniors and nonseniors with whom to share existing housing units.

(b) Not less than 90 percent of the funds available pursuant to this chapter shall be allocated by the department for the establishment or continuance of programs described in subdivision (a). The department may make up to 10 percent of the funds available to nonprofit organizations that have operational shared housing programs and which demonstrate the capability to provide technical assistance to other nonprofit corporations inexperienced in the operation of shared housing programs which intend to establish those programs in areas where there is a demonstrated need for those programs and where no programs of this type exist, as determined by the department.

SEC. 2. Section 50533.4 of the Health and Safety Code is repealed.

SEC. 3. Section 50533.4 is added to the Health and Safety Code, to read:

50533.4. (a) The department shall establish criteria to analyze the effectiveness of proposals made by nonprofit organizations which seek funds pursuant to this chapter. Those criteria shall include, but not be limited to, all of the following:

(1) At least 50 percent of those individuals expected to change their living arrangements from that of living alone to sharing existing housing shall be seniors.

(2) Seniors assisted in finding shared living arrangements shall be expected to experience a reduced cost of living, which is less than the

cost of institutionalization, due to their change in living arrangements.

(3) Nonprofit organizations shall provide an equal match of funds. However, no match of funds shall be required if the department determines that a nonprofit organization has the capability to carry out the purposes specified in this chapter, was organized within the preceding 12 months, and is unable to provide the equal match of funds.

(b) The department shall consult with the Department of Aging with respect to the administration of the Senior Citizens' Shared Housing Program, including, but not limited to, administrative activities related to the solicitation and review of proposals and the award of funds.

SEC. 4. Section 50533.5 of the Health and Safety Code is repealed.

SEC. 5. Section 50533.5 is added to the Health and Safety Code, to read:

50533.5. Funds allocated to nonprofit organizations pursuant to this chapter shall be utilized only for staff and office operation costs. No nonprofit organization shall receive more than fifty thousand dollars ($50,000) in any calendar year. The department may utilize funds appropriated for the purposes of this chapter for administrative costs incurred in order to implement this chapter.

SEC. 6. Chapter 5.5 (commencing with Section 51260) is added to Part 3 of Division 31 of the Health and Safety Code, to read:

CHAPTER 5.5. SECOND UNIT FINANCING

51260. The Legislature finds and declares that the primary goals of this chapter are to:

(a) Increase the state's supply of rental units for lower income households.

(b) Help persons and families of low or moderate income meet their escalating housing costs or special housing needs by adding an independent dwelling unit to their existing single-family home.

(c) Make more efficient use of the existing underutilized housing stock.

51261. The following definitions apply to this chapter:

(a) "Local housing agency" means a redevelopment agency formed pursuant to Part 1 (commencing with Section 33000) of Division 24, a community development commission formed pursuant to Part 1.7 (commencing with Section 34100) of Division 24, and a housing authority formed pursuant to Part 2 (commencing with Section 34200) of Division 24, or a city, county, or city and county authorized to issue mortgage revenue bonds to finance multifamily rental housing developments or provide home mortgages pursuant to Part 5 (commencing with Section 52000).

(b) "Second unit" has the same meaning as prescribed by Section 65852.2 of the Government Code.

51262. The agency shall develop a program for financing the

development of second units to serve the housing needs of lower income households and shall implement that program on or before January 1, 1986. The agency may utilize whatever funds are available and which are authorized to be utilized for the purposes of this chapter, including proceeds from the issuance of revenue bonds by the agency. The proceeds from any revenue bonds issued for the purposes of this chapter shall be deposited in a special account in the fund.

51263. The agency may contract, subject to the availability of funds, with a qualified mortgage lender or a local housing agency to provide loans consistent with the requirements of this section for the development of second units, and the rehabilitation of primary units, as necessary. Loans shall bear interest at a rate of at least 6 percent per annum on the unpaid principal balance. However, the agency may reduce or eliminate interest payments on a loan for any period or, alternatively, defer interest on principal payments until the loan is repaid, or both, if the agency determines that such action is necessary to meet the housing needs of lower income tenants. The term of the loan shall not exceed 30 years.

51264. In connection with contracts entered into pursuant to Section 51263, the agency shall initially establish rents which may be altered from time to time, as may be necessary to assure affordable rents for lower income households occupying the second units and to the extent consistent with the requirements for repayment of any funds loaned pursuant to this chapter. The rents shall be regulated for at least 10 years or the term of the loan, whichever is longer.

51265. The agency shall do all of the following:

(a) Determine whether priority shall be given to loans for second units that are:

(1) To be occupied by elderly or handicapped.

(2) Attached to existing housing.

(3) Detached from existing housing.

(4) Conversions of existing space.

(b) Establish such other criteria for priority for loans as the agency determines necessary to carry out this chapter.

51266. The unit shall be located within a city, county, or city and county which has permitted the construction of the unit pursuant to a special use permit, conditional use permit, or ordinance as prescribed by Section 65852.2 of the Government Code.

51267. The agency may contract, subject to restrictions on the funds being used, with the department to administer the program pursuant to this chapter.

51268. (a) If the agency is unable to implement this chapter, it shall report the reasons for its inability to implement this chapter to the Legislature on or before July 1, 1986, and recommend changes in this chapter that would enable the agency to implement the program provided in this chapter.

(b) The agency shall also report to the Legislature and the Governor on or before July 1, 1986, and annually thereafter, on the

administration and implementation of the program established pursuant to this chapter.

SEC. 7. The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the General Fund to the Department of Housing and Community Development for the purpose of carrying out the Senior Citizens' Shared Housing Program established pursuant to Chapter 3.6 (commencing with Section 50533) of Part 2 of Division 31 of the Health and Safety Code.

CHAPTER 1631

An act to amend Sections 1327, 1329, 1331, 1422, and 1432 of, and to add Sections 1329.5 and 1432.1 to, the Health and Safety Code, relating to long-term health care facilities.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 1327 of the Health and Safety Code is amended to read:

1327. Whenever circumstances exist indicating that continued management of a long-term health care facility by the current licensee would present a substantial probability or imminent danger of serious physical harm or death to the patients, or there exists in the facility a condition in substantial violation of this chapter or the rules and regulations adopted pursuant to this chapter, or the facility exhibits a pattern or practice of habitual violation of this chapter or the rules and regulations adopted pursuant thereto, or the facility is closing or intends to terminate operation as a licensed long-term health care facility and adequate arrangements for relocation of residents have not been made at least 30 days prior to the closing or termination, the director may petition the superior court for the county in which the long-term health care facility is located for an order appointing a receiver to temporarily operate the long-term health care facility in accordance with this article.

The petition shall allege the facts upon which the action is based and shall be supported by an affidavit of the director. A copy of the petition and affidavits, together with an order to appear and show cause why temporary authority to operate the long-term health care facility should not be vested in a receiver pursuant to this article, shall be delivered to the licensee, administrator, or a responsible person at the facility to the attention of the licensee and administrator. The order shall specify a hearing date, which shall be not less than five, nor more than 10, days following delivery of the petition and order upon the licensee, except that the court may shorten or lengthen the time upon a showing of just cause.

At the time of the hearing, the state department shall advise the licensee of the name of the proposed receiver. The receiver shall be a licensed nursing home administrator or other responsible person or entity, as determined by the court, and shall have sufficient background and experience in management and finances to ensure compliance with orders issued by the court. The owner, licensee, or administrator shall not be appointed as the receiver unless authorized by the court.

If at the conclusion of the hearing, which may include oral testimony and cross-examination at the option of any party, the court determines that adequate grounds exist for the appointment of a receiver and that there is no other reasonably available remedy to protect the patients, the court may issue an order appointing a receiver to temporarily operate the long-term health care facility and enjoining the licensee from interfering with the receiver in the conduct of his or her duties. The court shall in any such proceedings make written findings of fact and conclusions of law, and shall require an appropriate bond to be filed by the receiver and paid for by the licensee. The bond shall be in an amount necessary to protect the licensee in the event of any failure on the part of the receiver to act in a reasonable manner. The bond requirement may be waived by the licensee.

The court may permit the licensee to participate in the continued operation of the facility during the pendency of any receivership ordered pursuant to this section and shall issue an order detailing the nature and scope of participation.

Failure of the licensee to appear at the hearing on the petition shall constitute an admission of all factual allegations contained in the petition for purposes of these proceedings only.

The licensee shall receive notice and a copy of the application each time the receiver applies to the court or the state department for instructions regarding his or her duties under the provisions of this article, when an accounting pursuant to Section 1330 is submitted, and when a report pursuant to Section 1332 or other report is submitted. The licensee shall have an opportunity to present objections or otherwise participate in any such proceeding.

SEC. 2. Section 1329 of the Health and Safety Code is amended to read:

1329. (a) The receiver appointed pursuant to this article:

(1) May exercise those powers and shall perform those duties ordered by the court, in addition to other duties provided by statute.

(2) Shall operate the facility in such a manner as to assure safety and adequate health care for the residents.

(3) Shall have the same rights to possession of the building in which the facility is located, and of all goods and fixtures in the building at the time the petition for receivership is filed, as the licensee and administrator would have had if the receiver had not been appointed.

(4) May use the funds, building, fixtures, furnishings, and any

accompanying consumable goods in the provision of care and services to residents and to any other persons receiving services from the facility at the time the petition for receivership was filed.

(5) Shall take title to all revenue coming to the facility in the name of the receiver who shall use it for the following purposes in descending order of priority:

(A) To pay wages to staff. The receiver shall have full power to hire, direct, manage, and discharge employees of the facility, subject to any contractual rights they may have. The receiver shall pay employees at the same rate of compensation, including benefits, that the employees would have received from the licensee.

(B) To preserve patient funds. The receiver shall be entitled to, and shall take, possession of all property or assets of residents which are in the possession of the licensee or operator of the facility. The receiver shall preserve all property, assets, and records of residents of which the receiver takes possession.

(C) To contract for such outside services as may be needed for the operation of the long-term health care facility. Any contract for outside services in excess of three thousand dollars ($3,000) shall be approved by the court.

(D) To pay commercial creditors of the long-term health care facility. Except as provided in Section 1329.5, the receiver shall honor all leases, mortgages, and secured transactions affecting the building in which the facility is located and all goods and fixtures in the building of which the receiver has taken possession, but only to the extent of payments which, in the case of a rental agreement, are for the use of the property during the period of receivership, or which, in the case of a purchase agreement, come due during the period of receivership.

(E) To receive a salary, as approved by the court.

(F) To do all things necessary and proper to maintain and operate the facility in accordance with sound fiscal policies. The receiver shall take such action as is reasonably necessary to protect or conserve the assets or property of which the receiver takes possession and may use such assets or property only in the performance of the powers and duties set out in this section and by order of the court.

(G) To maintain a reasonable return on the licensee's investment.

(b) A person who is served with notice of an order of the court appointing a receiver and of the receiver's name and address shall be liable to pay the receiver, rather than the licensee, for any goods or services provided by the long-term health care facility after the date of the order. The receiver shall give a receipt for each such payment and shall keep a copy of each receipt on file. The receiver shall deposit amounts received in a special account and shall use this account for all disbursements. Payment to the receiver pursuant to this subdivision shall discharge the obligation to the extent of the payment and shall not thereafter be the basis of a claim by the licensee or any other person. A resident may not be discharged nor

may any contract or rights be forfeited or impaired, nor may any forfeiture be effected or liability increased, by reason of an omission to pay the licensee, operator, or other person a sum paid to the receiver pursuant to this subdivision.

(c) Nothing contained in this section shall be construed to suspend, during the temporary management by the receiver, any obligation of the licensee for payment of local, state, or federal taxes. No licensee may be held liable for acts or omissions of the receiver during the term of the temporary management.

(d) Upon petition of the receiver, the court may order immediate payment to the receiver for past services which have been rendered and billed, and the court may also order a sum not to exceed one month's advance payment to the receiver of any sums that will become payable under the Medi-Cal program.

SEC. 3. Section 1329.5 is added to the Health and Safety Code, to read:

1329.5. (a) A receiver may not be required to honor any lease, mortgage, secured transaction or other wholly or partially executory contract entered into by the owners or operators of the facility if both of the following criteria are met:

(1) The person seeking payment under the agreement was an operator or controlling person of the facility, as determined by the receiver, or was an affiliate of the operator or controlling person at the time the agreement was made.

(2) The rent, price, or rate of interest required to be paid under the agreement was substantially in excess of a reasonable rent, price, or rate of interest at the time the contract was entered into, as determined by the court.

(b) If the receiver is in possession of real estate or goods subject to a lease, mortgage, or security interest which the receiver is permitted to avoid pursuant to subdivision (a), and if the real estate or goods are necessary for the continued operation of the facility, the receiver may apply to the court to set a reasonable rent, price, or rate of interest to be paid by the receiver during the duration of the receivership. The court shall hold a hearing on this application within 15 days. The receiver shall send notice of the application to any known owner of the property involved at least 10 days prior to the hearing.

Payment by the receiver of the amount determined by the court to be reasonable is a defense to any action against the receiver for payment or possession of the goods or real estate, subject to the lease or mortgage, which is brought by any person who received the notice required by this subdivision. However, payment by the receiver of the amount determined by the court to be reasonable shall not relieve the owner or operator of the facility from any liability for the difference between the amount paid by the receiver and the amount due under the original lease, mortgage, or security interest.

SEC. 3.5. Section 1331 of the Health and Safety Code is amended to read:

1331. (a) The receiver shall be appointed for an initial period of not more than six months. The initial six-month period may be extended for additional periods not exceeding six months, as determined by the court pursuant to this section. At the end of four months, the receiver shall report to the court on its assessment of the probability that the long-term health care facility will meet state standards for operation by the end of the initial six-month period and will continue to maintain compliance with those standards after termination of the receiver's management. If it appears that the facility cannot be brought into compliance with state standards within the initial six-month period, the court shall take appropriate action as follows:

(1) Extend the receiver's management for an additional six months if there is a substantial likelihood that the facility will meet state standards within that period and will maintain compliance with the standards after termination of the receiver's management. The receiver shall report to the court in writing upon the facility's progress at the end of six weeks of any extension ordered pursuant to this paragraph.

(2) Order the director to revoke or temporarily suspend, or both, the license pursuant to Section 1296 and extend the receiver's management for the period necessary to transfer patients in accordance with the transfer plan, but in no event for more than six months from the date of the initial appointment of a receiver or 14 days, whichever is greater.

(b) If it appears at the end of six weeks of an extension ordered pursuant to paragraph (1) of subdivision (a) that the facility cannot be brought into compliance with state standards for operation or that it will not maintain compliance with those standards after the receiver's management is terminated, the court shall take appropriate action as specified in paragraph (2) of subdivision (a).

(c) In evaluating the probability that a long-term health care facility will maintain compliance with state standards of operation after the termination of receiver management ordered by the court, the court shall consider at least the following factors:

(1) The duration, frequency, and severity of past violations.

(2) Past and current violations in other long-term health care facilities operated by the licensee.

(3) Efforts by the licensee to prevent and correct past violations.

(4) The financial ability of the licensee to operate in compliance with state standards.

(5) The licensee's willingness and ability to comply with the rehabilitation plan established pursuant to subdivision (d).

(6) The recommendations and reports of the receiver.

(d) Management of a long-term health care facility operated by a receiver pursuant to this article shall not be returned to the licensee or to any agent or employee of the licensee unless a written rehabilitation plan is approved by the court and the plan specifies actions to be taken by the licensee to improve the management of,

and the patient care provided by, the facility and to secure and maintain compliance with state standards for operation. The state department shall monitor the facility's conformity with the rehabilitation plan. Failure to follow the plan shall be grounds for license revocation or suspension pursuant to Article 5 (commencing with Section 1294).

(e) The owner of the facility may at any time sell, lease, or close the facility, subject to the following provisions:

(1) If the owner closes the facility, or the sale or lease results in the closure of the facility, the court shall determine if a transfer plan is necessary. If the court so determines, the court shall adopt and implement a transfer plan of not more than 30 days.

(2) If the licensee proposes to sell or lease the facility and the facility will continue to operate as a long-term health care facility, the court and the state department shall reevaluate any proposed transfer plan. If the court and the state department determine that the sale or lease of the facility will result in compliance with licensing standards, the transfer plan and the receivership shall, subject to such conditions that the court may impose and enforce, be terminated upon the effective date of the sale or lease.

SEC. 4. Section 1422 of the Health and Safety Code is amended to read:

1422. (a) The Legislature finds and declares that it is the public policy of this state to assure that long-term health care facilities provide the highest level of care possible. The Legislature further finds that inspections are the most effective means of furthering this policy. It is not the intent of the Legislature by the amendment of subdivision (b) enacted by Chapter 1595 of the Statutes of 1982 to reduce in any way the resources available to the state department for inspections, but rather to provide the state department with the greatest flexibility to concentrate its resources where they can be most effective.

(b) Without providing notice of these inspections, the state department shall, in addition to any inspections conducted pursuant to complaints filed pursuant to Section 1419, conduct inspections annually, except with regard to those facilities which have no class "AA", class "A", or class "B" violations in the past twelve months. The state department shall also conduct inspections as may be necessary to assure the health, safety, and security of patients in long-term health care facilities. Every facility shall be inspected at least once every two years.

The state department shall submit to the federal Department of Health and Human Services on or before July 1, 1985, for review and approval, a request to implement a three-year pilot program designed to lessen the predictability of the long-term health care facility inspection process. Two components of the pilot program shall be (1) the elimination of the present practice of entering into a one-year certification agreement, and (2) the conduct of segmented inspections of a sample of facilities with poor inspection

records, as defined by the state department. At the conclusion of the pilot project, an analysis of both components shall be conducted by the state department to determine effectiveness in reducing inspection predictability and the respective cost benefits. Implementation of this pilot project is contingent upon federal approval. The state department shall report annually to the Legislature on progress of the pilot project with a final report at the end of the third year.

(c) Except as otherwise provided in subdivision (b), the state department shall conduct unannounced direct patient care inspections at least annually to inspect physician and surgeon services, nursing services, pharmacy services, dietary services, and activity programs of all the long-term health care facilities. Facilities evidencing repeated serious problems in complying with this chapter or a history of poor performance, or both, shall be subject to periodic unannounced direct patient care inspections during the inspection year. The direct patient care inspections shall assist the state department in the prioritization of its efforts to correct facility deficiencies.

(d) All long-term health care facilities shall report to the state department any changes in the nursing home administrator or the director of nursing services within 10 calendar days of such changes.

(e) Within 90 days after the receipt of notice of a change in the nursing home administrator or the director of nursing services, the state department may conduct an abbreviated inspection of the long-term health care facilities.

SEC. 5. Section 1432 of the Health and Safety Code is amended to read:

1432. (a) No licensee shall discriminate or retaliate in any manner against any patient or any employee in its long-term health care facility on the basis or for the reason that the patient or the employee or any other person has presented a grievance or complaint, or has initiated or cooperated in any investigation or proceeding of any governmental entity relating to care, services, or conditions at that facility. A licensee who violates this section is subject to a civil penalty of no more than ten thousand dollars ($10,000), to be assessed by the director and collected in the manner provided in Section 1430.

(b) Any attempt to expel a patient from a long-term health care facility, or any type of discriminatory treatment of a patient by whom, or upon whose behalf, a grievance or complaint has been submitted, directly or indirectly, to any governmental entity or received by a long-term health care facility administrator or any proceeding instituted under or related to this chapter within 180 days of the filing of the complaint or the institution of the action, shall raise a rebuttable presumption that the action was taken by the licensee in retaliation for the filing of the complaint.

(c) Any attempt to terminate the employment, or other discriminatory treatment, of any employee who has presented a

grievance or complaint or has initiated, participated, or cooperated in any investigation or proceeding of any governmental entity as specified in subdivision (a), and where the facility or licensee had knowledge of the employee's initiation, participation, or cooperation, shall raise a rebuttable presumption that the action was taken by the licensee in retaliation if it occurs within 120 days of the filing of the grievance or complaint, or the institution of the action.

(d) Presumptions provided for in subdivisions (b) and (c) shall be presumptions affecting the burden of producing evidence as provided in Section 603 of the Evidence Code.

(e) Where the civil penalty assessed is one thousand dollars ($1000) or less, the violation shall be issued and enforced in the same manner as a class "B" violation, except in no case shall the penalty be trebled. Where the civil penalty assessed is in excess of one thousand dollars ($1000), the violation shall be issued and enforced in the same manner as a class "A" violation, except in no case shall the penalty be trebled.

(f) Any person who willfully violates this section is guilty of an infraction punishable by a fine of not more than ten thousand dollars ($10,000).

(g) A licensee who violates this section is subject to a civil penalty or a criminal fine, but not both.

(h) Each long-term health care facility shall prominently post in a facility location accessible to staff, patients, and visitors written notice of the right to request an inspection pursuant to Section 1419, the procedure for doing so, including the right to remain anonymous, and the prohibition against retaliation.

SEC. 6. Section 1432.1 is added to the Health and Safety Code, to read:

1432.1. No licensee shall be cited for any violation caused by any person licensed pursuant to the Medical Practice Act (Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code) if the person is independent of, and not connected with, the licensee and the licensee shows that he or she has exercised reasonable care and diligence in notifying these persons of their duty to the patients in the licensee's long-term health care facility.

SEC. 7. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 8. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act

creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 9. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1632

An act to amend Sections 1420 and 1428 of, and to add Sections 1422.7 and 1534.5 to, the Health and Safety Code, and to add Sections 9726.1 and 9732 to the Welfare and Institutions Code, relating to health facilities, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984]

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

SECTION 1. Section 1420 of the Health and Safety Code is amended to read:

1420. (a) Upon receipt of a complaint, the state department shall assign an inspector to make a preliminary review of the complaint and shall notify the complainant of the name of the inspector. Unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection or investigation within 10 working days of the receipt of the complaint. In either event, the complainant shall be promptly informed of the state department's proposed course of action. Upon the request of either the complainant or the state department, the complainant or his or her representative, or both, may be allowed to accompany the inspector to the site of the alleged violations during his or her tour of the facility, unless the inspector determines that the privacy of any patient would be violated thereby.

When conducting an onsite inspection or investigation pursuant to this section, the state department shall collect and evaluate all available evidence and may issue a citation based upon, but not limited to, all of the following:

(1) Observed conditions.

(2) Statements of witnesses.

(3) Facility records.

(b) Upon being notified of the state department's determination as a result of the inspection or investigation, a complainant who is dissatisfied with the state department's determination, regarding a matter which would pose a threat to the health, safety, security, welfare, or rights of a resident, shall be notified by the state

department of the right to an informal conference, as set forth in this section, and may, within five business days after receipt of the notice, notify the director in writing of his or her request for an informal conference with the designee of the director for the county in which the long-term health care facility which is the subject of the complaint is located. The long-term health care facility may participate as a party in this informal conference. The director's designee shall notify the complainant and licensee of his or her determination within 10 working days after the informal conference and shall apprise the complainant and licensee in writing of the appeal rights provided in subdivision (c).

(c) If the complainant is dissatisfied with the determination of the director's designee in the county in which the facility is located, the complainant may, within five days after receipt of this determination, notify in writing the Deputy Director of the Licensing and Certification Division of the state department, who shall review the facts that led to both determinations. Based upon this review, the Deputy Director of the Licensing and Certification Division of the state department shall make his or her own determination and notify the complainant and the facility within 30 days.

(d) Any citation issued as a result of a conference or review provided for in subdivision (b) or (c) shall be issued and served upon the facility within three days of the final determination, excluding Saturday, Sunday, and holidays, unless the licensee agrees in writing to an extension of this time. Service shall be effected either personally or by registered or certified mail. A copy of the citation shall also be sent to each complainant.

SEC. 2. Section 1428 of the Health and Safety Code is amended to read:

1428. (a) If a licensee desires to contest a class "AA" or a class "A" citation, or a citation alleging a class "B" violation and either a class AA or class A violation or the proposed assessment of a civil penalty therefor, the licensee shall within five business days after service of the citation notify the director in writing of his or her request for a citation review conference with the designee of the director for the county in which the cited long-term health care facility is located. The director's designee shall hold, within five business days from the receipt of the request, a citation review conference, at the conclusion of which he or she may affirm, modify, or dismiss the citation or proposed assessment of a civil penalty. If the director's designee affirms, modifies, or dismisses the citation or proposed assessment of a civil penalty, he or she shall state with particularity in writing his or her reasons for that action, and shall immediately transmit a copy thereof to each party to the original complaint. If the licensee desires to contest a decision made after the citation review conference, the licensee shall inform the director in writing within five business days after he or she receives the decision by the director's designee. If the licensee fails to notify the director

in writing that he or she intends to contest the citation or the proposed assessment of a civil penalty therefor or the decision made by a director's designee after a citation review conference within the time specified in this subdivision, the citation or the proposed assessment of a civil penalty or the decision by a director's designee after a citation review conference shall be deemed a final order of the state department and shall not be subject to further administrative review.

(b) If a licensee notifies the director that he or she intends to contest a class "AA" or a class "A" citation, or a citation alleging a class "B" violation and either a class "AA" or class "A" violation, the director shall immediately notify the Attorney General. Upon notification, the Attorney General shall promptly take all appropriate action to enforce the citation and recover the civil penalty prescribed thereon, and shall take such other action as the Attorney General shall deem appropriate, in the court of competent jurisdiction for the county in which the long-term health care facility is located.

(c) If a licensee desires to contest a class "B" citation or the proposed assessment of a civil penalty therefor, the licensee shall within five business days after service of the citation (1) notify the director in writing of his or her request for a citation review conference with the designee of the director for the county in which the cited long-term health care facility is located; or (2) notify the director in writing of the licensee's intent to adjudicate the validity of the citation in the municipal court in the county in which the long-term health care facility is located. If requested by the licensee, the director's designee shall hold, within five business days from the receipt of the request, a citation review conference, at the conclusion of which he or she may affirm, modify, or dismiss the citation or the proposed assessment of a civil penalty. If the director's designee affirms, modifies, or dismisses the citation or proposed assessment of a civil penalty, he or she shall state with particularity in writing his or her reasons for that action and shall immediately transmit a copy thereof to each party to the original complaint. If the licensee desires to contest a decision made after the citation review conference, the licensee shall inform the director in writing within five business days after he or she receives the decision by the director's designee. In order to perfect a judicial appeal of a contested citation, a licensee shall file a civil action in the municipal court in the county in which the long-term health care facility is located. The action shall be filed no later than 60 calendar days after a licensee notifies the director that he or she intends to contest a citation, or, in the event a citation review conference is held, no later than 60 calendar days after a licensee notifies the director of his or her intent to contest the decision of the director's designee. If a judicial appeal is prosecuted under the provisions of this subdivision, the state department shall have the burden of establishing by a preponderance of the evidence that (1) the alleged violation did occur, (2) the alleged violation met

the criteria for the class of citation alleged, and (3) the assessed penalty was appropriate. The state department shall also have the burden of establishing by a preponderance of the evidence that the assessment of a civil penalty should be upheld. If a licensee fails to notify the director in writing that he or she intends to contest the citation or the decision made by the director's designee within the time specified in this subdivision, or fails to file a civil action within the time specified in this subdivision, the citation or the decision by the director's designee after a citation review conference shall be deemed a final order of the state department and shall not be subject to further administrative review. If a licensee prosecutes a judicial appeal of a contested citation or the assessment of a civil penalty, no civil penalty shall be due and payable unless and until the appeal is terminated in favor of the state department.

(d) The person designated by the director to conduct the citation review conference shall not be an employee of the state department who is regularly assigned to the district licensing office from which the citation originated.

Where the state department issues a citation as a result of a complaint or regular inspection visit, and a resident or residents are specifically identified in a citation by name as being specifically affected by the violation, then the following persons may attend the citation review conference.

(1) The complainant and his or her designated representative.

(2) A personal health care provider, designated by the resident.

(3) A personal attorney, only if the long-term health care facility has an attorney present.

(4) Any person representing the Office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Welfare and Institution Code.

Where the state department determines that residents in the facility were threatened by the cited violation but does not name specific residents, any person representing the Office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code, and a representative of the residents or family council at the facility may participate to represent all residents. In this case, these representatives shall be the sole participants for the residents in the conference. The residents' council shall designate which representative will participate.

The complainant, affected resident, or their designated representatives shall be notified by the state department of the conference and their right to participate. The director's designee shall notify the complainant or his or her designated representative and the affected resident or his or her designated representative, of his or her determination based on the citation review conference.

(f) In assessing the civil penalty for a violation, all relevant facts shall be considered, including, but not limited to, all of the following:

(1) The probability and severity of the risk which the violation

presents to the patient's mental and physical condition.

(2) The patient's medical condition.

(3) The patient's mental condition and his or her history of mental disability.

(4) The good-faith efforts exercised by the facility to prevent the violation from occurring.

(5) The licensee's history of compliance with regulations.

(g) Except as otherwise provided in this subdivision, an assessment of civil penalties for a class "A" or class "B" violation shall be trebled and collected for a second or subsequent violation occurring within any 12-month period, if a citation was issued and a civil penalty assessed for the previous violation occurring within the period, without regard to whether the action to enforce the previous citation has become final. However, the increment to the civil penalty required by this subdivision shall not be due and payable unless and until the previous action has terminated in favor of the state department.

If the class "B" violation is a patient's rights violation, as defined in subdivision (d) of Section 1424, it shall not be trebled unless the state department determines the violation has a direct or immediate relationship to the health, safety, security, or welfare of long-term health care facility residents.

(h) The director shall prescribe procedures for the issuance of a notice of violation with respect to violations having only a minimal relationship to safety or health.

(i) Actions brought under the provisions of this chapter shall be set for trial at the earliest possible date and shall take precendence on the court calendar over all other cases except matters to which equal or superior precedence is specifically granted by law. Times for responsive pleading and for hearing any such proceeding shall be set by the judge of the court with the object of securing a decision as to subject matters at the earliest possible time.

(j) If the citation is dismissed or reduced, the state department shall take action immediately to ensure that the public records reflect in a prominent manner that the citation was dismissed or reduced.

(k) Upon a licensee notifying the director of its intent to contest one or more citations or decisions made following a citation review conference where the total penalties do not exceed fifteen thousand dollars ($15,000), either the state or the licensee may elect to submit the matter to binding arbitration. The parties shall agree upon an arbitrator designated from the American Arbitration Association in accordance with the association's established rules and procedures. The arbitration hearing shall be set within 45 days of the petitioner's election, but in no event less than 28 days from the date of selection of an arbitrator. The arbitration hearing may be continued up to 15 additional days if necessary at the arbitrator's discretion. The decision of the arbitrator shall be based upon substantive law and shall be binding on all parties, subject to judicial review. This review

shall be limited to whether there was substantial evidence to support the decision of the arbitrator.

The arbitrator shall determine which of the parties are financially liable for arbitration costs based upon the position each took at the commencement of the arbitration proceedings compared to the decision of the arbitrator.

The retention of, renewal of, or application for, a license to operate a skilled nursing facility or intermediate care facility shall, for purposes of the administration of this chapter, be deemed a written agreement to arbitrate contested citations within the meaning of Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure. Without extending the time for commencement of these hearings, the provisions of Section 1283.05 of the Code of Civil Procedure shall be applicable to all proceedings to arbitrate citations issued pursuant to this chapter, except that depositions may be noticed and taken without prior approval of the arbitrator.

Penalties paid on violations under this chapter shall be applied against the state department's accounts to offset any costs incurred by the state pursuant to this subdivision. Any costs or penalties assessed pursuant to this chapter shall be paid within 30 days of the date the decision becomes final. If a facility does not comply with this provision, the state department shall withhold any payment under the Medi-Cal program until the debt is satisfied. No payment shall be withheld if the state department determines that it would cause undue hardship to the facility or to patients of the facility.

SEC. 3. Section 1422.7 is added to the Health and Safety Code, to read:

1422.7. The state department shall provide the office, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code, with copies of inspection reports for long-term health care facilities upon request. The state department shall provide the office with copies of all class "AA," "A," and "B" citations issued.

SEC. 4. Section 1534.5 is added to the Health and Safety Code, to read:

1534.5. The state department shall provide the office, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code, with copies of inspection reports for community care facilities upon request.

SEC. 5. Section 9726.1 is added to the Welfare and Institutions Code, to read:

9726.1. The office, as defined in subdivision (c) of Section 9701, may do any or all of the following:

(a) Advise the public of any inspection report, statements of deficiency, and plans of correction for any long-term health care facilities within its service area.

(b) Promote visitation programs to long-term health care facilities within its service area.

(c) Establish and assist in the development of resident, family, and friends' councils.

(d) Sponsor other community involvement in long-term health care facilities.

(e) Present community education and training programs to long-term health care facilities, human service workers, families, and the general public about long-term care and residents' rights issues.

(f) Those programs created under the provisions of this section which are held in a facility shall be developed in consultation with the facility. If the facility and the ombudsman cannot agree on these programs, the State Long-Term Care Ombudsman may assist in resolving the dispute.

SEC. 6. Section 9732 is added to the Welfare and Institutions Code, to read:

9732. Any person who willfully interferes with any lawful action of the office, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code, is subject to a civil penalty of no more than one thousand dollars ($1,000) to be assessed by the Director of Aging who shall initiate the action, upon the request of the office, to collect the penalties in the jurisdiction in which the facility is located.

SEC. 7. The sum of two hundred eight thousand five hundred dollars ($208,500) is hereby appropriated from the General Fund to the Office of the State Long-Term Care Ombudsman for purposes of carrying out the provisions of Section 9726.1 of the Welfare and Institutions Code.

SEC. 8. Sections 1 to 7, inclusive of this act shall not become operative unless Assembly Bill No. 2909 of the 1983–84 Regular Session is chaptered and becomes effective on or before January 1, 1985.

CHAPTER 1633

An act to amend Section 647 of the Penal Code, relating to crimes.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 647 of the Penal Code is amended to read:

647. Every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

(a) Who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view.

(b) Who solicits or who engages in any act of prostitution. As used in this subdivision, "prostitution" includes any lewd act between persons for money or other consideration.

(c) Who accosts other persons in any public place or in any place open to the public for the purpose of begging or soliciting alms.

(d) Who loiters in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act.

(e) Who loiters or wanders upon the streets or from place to place without apparent reason or business and who refuses to identify himself and to account for his presence when requested by any peace officer so to do, if the surrounding circumstances are such as to indicate to a reasonable person that the public safety demands such identification.

(f) Who is found in any public place under the influence of intoxicating liquor, any drug, toluene, any substance defined as a poison in Schedule D of Section 4160 of the Business and Professions Code, or any combination of any intoxicating liquor, drug, toluene, or any such poison, in such a condition that he is unable to exercise care for his own safety or the safety of others, or by reason of his being under the influence of intoxicating liquor, any drug, toluene, any substance defined as a poison in Schedule D of Section 4160 of the Business and Professions Code, or any combination of any intoxicating liquor, drug, toluene, or any such poison, interferes with or obstructs or prevents the free use of any street, sidewalk, or other public way.

(ff) When a person has violated subdivision (f) of this section, a peace officer, if he is reasonably able to do so, shall place the person, or cause him to be placed, in civil protective custody. Such person shall be taken to a facility, designated pursuant to Section 5170 of the Welfare and Institutions Code, for the 72-hour treatment and evaluation of inebriates. A peace officer may place a person in civil protective custody with that kind and degree of force which would be lawful were he effecting an arrest for a misdemeanor without a warrant. No person who has been placed in civil protective custody shall thereafter be subject to any criminal prosecution or juvenile court proceeding based on the facts giving rise to such placement. This subdivision shall not apply to the following persons:

(1) Any person who is under the influence of any drug, or under the combined influence of intoxicating liquor and any drug.

(2) Any person who a peace officer has probable cause to believe has committed any felony, or who has committed any misdemeanor in addition to subdivision (f) of this section.

(3) Any person who a peace officer in good faith believes will attempt escape or will be unreasonably difficult for medical personnel to control.

(g) Who loiters, prowls, or wanders upon the private property of another, at any time, without visible or lawful business with the owner or occupant thereof. As used in the subdivision, "loiter" means to delay or linger without a lawful purpose for being on the property and for the purpose of committing a crime as opportunity may be discovered.

(h) Who, while loitering, prowling, or wandering upon the private property of another, at any time, peeks in the door or window

of any inhabited building or structure located thereon, without visible or lawful business with the owner or occupant thereof.

(i) Who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control thereof.

In any accusatory pleading charging a violation of subdivision (b) of this section, if the defendant has been once previously convicted of a violation of that subdivision, the previous conviction shall be charged in the accusatory pleading; and, if the previous conviction is found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or is admitted by the defendant, the defendant shall be imprisoned in the county jail for a period of not less than 45 days and shall not be eligible for release upon completion of sentence, on parole, or on any other basis until he has served a period of not less than 45 days in the county jail. In no such case shall the trial court grant probation or suspend the execution of sentence imposed upon the defendant.

In any accusatory pleading charging a violation of subdivision (b) of this section, if the defendant has been previously convicted two or more times of a violation of that subdivision, each such previous conviction shall be charged in the accusatory pleading; and, if two or more of such previous convictions are found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or are admitted by the defendant, the defendant shall be imprisoned in the county jail for a period of not less than 90 days and shall not be eligible for release upon completion of sentence, on parole, or on any other basis until he has served a period of not less than 90 days in the county jail. In no such case shall the trial court grant probation or suspend the execution of sentence imposed upon the defendant.

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

CHAPTER 1634

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

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

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

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

(1) Where a person is incapable, because of mental disease, defect, or disorder or because of physical disability, of giving consent, and this is known or reasonably should be known to the person committing the act. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disease, defect, or disorder or physical disability rendered the alleged victim incapable of giving consent.

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

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

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

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

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

(7) Where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. As used in this paragraph, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

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

eliminates a crime or infraction.

CHAPTER 1635

An act to amend Sections 2237, 2238, 2239, 2762, 2878.5, 2960, 4035, 4035.2, 4036.2, 4036.4, 4227, 4229, 4230, 4353, 4358, 4362, 4363, 4521, 4883, 4955, 6581, 7431, and 24200.5 of the Business and Professions Code, to amend Sections 44011, 44345, 44346, 44425, 44436, 44836, 44940, 45123, 76033, 87009, 87011, 87290, 87335, 87405, 88022, and 89535 of the Education Code, to amend Sections 818.7, 18935, and 19572 of the Government Code, to amend Sections 11350, 11351, 11352, 11353, 11354, 11355, 11361.5, 11364, 11364.5, 11365, 11366, 11370, 11373, 11377, 11378, 11378.5, 11379, 11379.5, 11380, 11380.5, 11382, 11383, 11550, 11591, and 26665 of, to add Sections 11054, 11055, 11056, 11057, 11058, and 11375 to, to repeal Sections 11007, 11054, 11055, 11056, 11057, 11058, 11150.5, 11375, and 11376 of, the Health and Safety Code, to amend Section 10369.12 of the Insurance Code, to amend Sections 222, 261, 647, 849, 1237, 1466, 2772, 2790, 4573, 4573.5, 4573.6, and 6102 of the Penal Code, to amend Section 21407.5 of the Public Utilities Code, to amend Sections 1803, 1808.5, and 13202 of the Vehicle Code, and to amend Sections 330, 654, 708, 1001.5, 5340, 5342, 5343, and 5344 of, to repeal and add Section 5341 of, and to amend the heading of Article 8 (commencing with Section 5340) of Chapter 2 of Part 1 of Division 5 of, the Welfare and Institutions Code, relating to crimes.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 2237 of the Business and Professions Code is amended to read:

2237. (a) The conviction of a charge of violating any federal statutes or regulations or any statute or regulation of this state, regulating dangerous drugs or controlled substances, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

(b) Discipline may be ordered in accordance with Section 2227 or the Division of Licensing may order the denial of the license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

SEC. 2. Section 2238 of the Business and Professions Code is amended to read:

2238. A violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct.

SEC. 3. Section 2239 of the Business and Professions Code is amended to read:

2239. (a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4211, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.

(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The Division of Medical Quality may order discipline of the licensee in accordance with Section 2227 or the Division of Licensing may order the denial of the license when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

SEC. 4. Section 2762 of the Business and Professions Code is amended to read:

2762. In addition to other acts constituting unprofessional conduct within the meaning of this chapter it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug as defined in Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of the Business and Professions Code.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of the Business and Professions Code, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the

public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

(d) Be committed or confined by a court of competent jurisdiction for intemperate use of or addiction to the use of any of the substances described in subdivisions (a) and (b) of this section, in which event the court order of commitment or confinement is prima facie evidence of such commitment or confinement.

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

SEC. 5. Section 2878.5 of the Business and Professions Code is amended to read:

2878.5. In addition to other acts constituting unprofessional conduct within the meaning of this chapter it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist or podiatrist administer to himself or herself or furnish or administer to another, any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of this code.

(b) Use any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of this code, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public, or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving possession of any narcotic or dangerous drug, or the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, in which event the record of the conviction is conclusive evidence thereof.

(d) Be committed or confined by a court of competent jurisdiction for intemperate use of or addiction to the use of any of the substances described in subdivisions (a) and (b) of this section, in which event the court order of commitment or confinement is prima facie evidence of such commitment or confinement.

(e) Falsify, or make grossly incorrect, grossly inconsistent, or

unintelligible entries in any hospital, patient, or other record pertaining to narcotics or dangerous drugs as specified in subdivision (b).

SEC. 6. Section 2960 of the Business and Professions Code is amended to read:

2960. The committee may order the denial of an application for licensure, or issue a license with terms and conditions, or, as to any licensee, order the suspension for a period not exceeding one year, or the revocation of, or the imposition of probationary conditions upon, a licensee for any of the following causes:

(a) Conviction of a crime substantially related to the qualifications, functions or duties of a psychologist or psychological assistant.

(b) Use of any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug, or any alcoholic beverage to an extent or in a manner dangerous to himself or herself, any other person, or the public, or to an extent that such use impairs his or her ability to perform the work of a psychologist with safety to the public.

(c) Fraudulently or neglectfully misrepresenting the type or status of license or registration actually held.

(d) Impersonating another person holding a psychology license or allowing another person to use his or her license or registration.

(e) Using fraud or deception in applying for a license or registration or in passing the examination provided for in this chapter.

(f) Accepting commissions or rebates or other forms of remuneration for referring persons to other professionals.

(g) Violating Section 17500.

(h) Willful, unauthorized communication of information received in professional confidence.

(i) Violating any rule of professional conduct promulgated by the committee and set forth in regulations duly adopted under this chapter.

(j) Being grossly negligent in the practice of his or her profession.

(k) Violating any of the provisions of this chapter or regulations duly adopted thereunder.

(*l*) The aiding or abetting of any person to engage in the unlawful practice of psychology.

(m) The suspension, revocation or imposition of probationary conditions by another state of a license or certificate to practice psychology or as a psychological assistant issued by that state to a person also holding a license or registration issued under this chapter if the act for which the disciplinary action was taken constitutes a violation of this section.

(n) The commission of any dishonest, corrupt, or fraudulent act or any act of sexual abuse, or sexual relations with a patient, or sexual misconduct which is substantially related to the qualifications, functions or duties of a psychologist or psychological assistant.

(o) Functioning outside of his or her particular field or fields of competence as established by his or her education, training, and experience.

SEC. 7. Section 4035 of the Business and Professions Code is amended to read:

4035. Pharmacy is an area, place, or premises in which the profession of pharmacy is practiced and where prescriptions are compounded. "Pharmacy" includes, but is not limited to, any area, place, or premises described in a permit issued by the board by reference to plans filed with and approved by the board wherein controlled substances or dangerous drugs or dangerous devices, as they are herein defined, are stored, possessed, prepared, manufactured, derived, compounded, or repackaged, and from which the controlled substances or dangerous drugs or dangerous devices are furnished, sold, or dispensed at retail.

"Pharmacy" shall not include any area in a facility licensed by the State Department of Health Services where floor supplies, ward supplies, operating room supplies, or emergency room supplies of drugs or dangerous devices are stored or possessed solely for treatment of patients registered for treatment in the facility or for treatment of patients receiving emergency care in the facility.

"Controlled substances or dangerous drugs or dangerous devices" as used herein shall include, but is not limited to, all controlled substances, drugs, or devices which are included within one or more of the following classifications:

(a) Drugs or devices bearing the legend, "Caution, federal law prohibits dispensing without prescription," or words of similar import.

(b) Controlled substances as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

(c) Drugs or devices enumerated in Section 4211.

(d) Hypodermic syringes and needles, or other drugs or devices, the sale of which is restricted by law to a registered pharmacist.

Neither this section nor any other provision of law shall be construed as prohibiting a pharmacy from furnishing a prescription drug or device to a licensed health care facility for storage in a secured emergency pharmaceutical supplies container maintained within the facility in accordance with facility regulations of the State Department of Health Services set forth in Title 22 of the California Administrative Code.

SEC. 8. Section 4035.2 of the Business and Professions Code is amended to read:

4035.2. No person other than a registered pharmacist as defined in Section 4037 or an intern pharmacist as defined in Section 4038.1 or an authorized officer of the law or a person authorized to prescribe as provided by Section 4036 shall be permitted in that area, place or premises described in the permit issued by the board pursuant to Section 4035 wherein controlled substances or dangerous drugs or dangerous devices as therein defined are stored, possessed,

prepared, manufactured, derived, compounded, or repackaged, except that a registered pharmacist shall be responsible for any individual who enters the pharmacy as described in Section 4035 for the purposes of receiving consultation from the pharmacist or of performing clerical, inventory control, housekeeping, delivery, maintenance or similar functions relating to the pharmacy, if the registered pharmacist remains present in the pharmacy during all times as such authorized individual is present.

The board may by regulation establish reasonable security measures consistent with this section in order to prevent unauthorized persons from gaining access to such area, place or premises or to the controlled substances or dangerous drugs or dangerous devices therein.

SEC. 9. Section 4036.2 of the Business and Professions Code is amended to read:

4036.2. Notwithstanding any other provision of law, a prescriber may authorize his or her employee on his or her behalf to orally transmit a prescription to the furnisher. The furnisher shall record the name of the employee of the prescriber who transmits the order.

This section shall not apply to orders for Schedule II controlled substances as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

SEC. 10. Section 4036.4 of the Business and Professions Code is amended to read:

4036.4. Notwithstanding any other provision of law, a registered pharmacist, registered nurse, licensed vocational nurse, licensed psychiatric technician, or other healing arts licentiate, if so authorized by administrative regulation, who is employed by or serves as a consultant for a licensed skilled nursing, intermediate care or other health care facility, may orally transmit to the furnisher a prescription lawfully ordered by a person authorized to prescribe drugs or devices pursuant to Section 4036. The furnisher shall record the name of the person who transmits the order. This section shall not apply to orders for Schedule II controlled substances as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

In enacting this section, the Legislature recognizes and affirms the role of the Department of Health Services in regulating drug order processing requirements for licensed health care facilities as set forth in Title 22 of the California Administrative Code as they may be amended from time to time.

SEC. 11. Section 4227 of the Business and Professions Code is amended to read:

4227. (a) No person shall furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist, or veterinarian.

(b) The provisions of this section do not apply to the furnishing of any dangerous drug by a manufacturer or wholesaler or pharmacy to each other or to a physician, dentist, podiatrist, or veterinarian, or

to a laboratory under sales and purchase records that correctly give the date, the names and addresses of the supplier and the buyer, the drug and its quantity.

(c) A registered pharmacist, or a person exempted pursuant to Section 4050.7, may distribute dangerous drugs and devices directly to hemodialysis patients pursuant to regulations promulgated by the board. The board shall promulgate such regulations as are necessary to insure the safe distribution of such drugs and devices to hemodialysis patients without interruption of supply including, but not limited to, the following: vendor licensing, records and labeling, patient receipts, patient training, report records, specific product and quantity limitations, verification order forms, reports and supplies, adequate establishment facilities, and reports to the board. A person who violates a regulation promulgated pursuant to this subdivision shall be liable upon order of the board to surrender his or her personal license. These penalties shall be in addition to penalties which may be imposed pursuant to Sections 4389 and 4350.5. If the board finds any hemodialysis drugs or devices distributed pursuant to this subdivision to be ineffective or unsafe for the intended use, the board may institute immediate recall of any or all of such drugs or devices distributed to individual patients.

(d) Home hemodialysis patients who receive any drugs or devices pursuant to subdivision (c) shall have completed a full course of home training given by a renal dialysis center accredited by the State Department of Health Services. The physician and surgeon prescribing the hemodialysis products shall submit proof satisfactory to the manufacturer or wholesaler that the patient has completed such program.

(e) A registered pharmacist may furnish a dangerous drug authorized for use pursuant to Section 2620.3 to a physical therapist or may furnish a topical pharmaceutical agent authorized for use pursuant to subdivision (e) of Section 3041 to an optometrist. A record containing the date, name and address of the buyer, and name and quantity of the drug shall be maintained. The provisions of this subdivision shall not be construed to authorize the furnishing of a controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

SEC. 11.5. Section 4227 of the Business and Professions Code is amended to read:

4227. (a) No person shall furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist, veterinarian, or nurse practitioner.

(b) The provisions of this section do not apply to the furnishing of any dangerous drug by a manufacturer or wholesaler or pharmacy to each other or to a physician, dentist, podiatrist, veterinarian, or to a laboratory under sales and purchase records that correctly give the date, the names and addresses of the supplier and the buyer, the drug and its quantity.

(c) A registered pharmacist, or a person exempted pursuant to

Section 4050.7, may distribute dangerous drugs and devices directly to hemodialysis patients pursuant to regulations promulgated by the board. The board shall promulgate such regulations as are necessary to insure the safe distribution of such drugs and devices to hemodialysis patients without interruption of supply including, but not limited to, the following: vendor licensing, records and labeling, patient receipts, patient training, report records, specific product and quantity limitations, verification order forms, reports and supplies, adequate establishment facilities, and reports to the board. A person who violates a regulation promulgated pursuant to this subdivision shall be liable upon order of the board to surrender his or her personal license. These penalties shall be in addition to penalties which may be imposed pursuant to Sections 4389 and 4350.5. If the board finds any hemodialysis drugs or devices distributed pursuant to this subdivision to be ineffective or unsafe for the intended use, the board may institute immediate recall of any or all of such drugs or devices distributed to individual patients.

(d) Home hemodialysis patients who receive any drugs or devices pursuant to subdivision (c) shall have completed a full course of home training given by a renal dialysis center accredited by the State Department of Health Services. The physician and surgeon prescribing the hemodialysis products shall submit proof satisfactory to the manufacturer or wholesaler that the patient has completed such program.

(e) A registered pharmacist may furnish a dangerous drug authorized for use pursuant to Section 2620.3 to a physical therapist or may furnish a topical pharmaceutical agent authorized for use pursuant to subdivision (e) of Section 3041 to an optometrist. A record containing the date, name and address of the buyer, and name and quantity of the drug shall be maintained. The provisions of this subdivision shall not be construed to authorize the furnishing of a controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

SEC. 12. Section 4229 of the Business and Professions Code is amended to read:

4229. No prescription for any dangerous drug may be refilled except upon authorization of the prescriber which may be given orally or at the time of giving the original prescription. No prescription for any dangerous drug which is a controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code may be designated refillable as needed.

SEC. 13. Section 4230 of the Business and Professions Code is amended to read:

4230. No person shall have in possession any controlled substance, except that furnished to such person upon the prescription of a physician, dentist, podiatrist, or veterinarian. The provisions of this section do not apply to the possession of any controlled substance by a manufacturer or wholesaler or a pharmacy or physician or podiatrist or dentist or veterinarian, when in stock in containers

correctly labeled with the name and address of the supplier or producer.

SEC. 14. Section 4353 of the Business and Professions Code is amended to read:

4353. The administering to himself or herself, of any controlled substance, or the use of any of the dangerous drugs specified by Section 4211 of this code, or of alcoholic beverages to the extent or in such manner as to be dangerous or injurious to a person holding a certificate, license, permit, registration or exemption under this chapter, or to any other person or to the public, or to the extent that such use impairs the ability of such person so holding a certificate, license, permit, registration or exemption to conduct with safety to the public the practice authorized by such certificate, license, permit, registration or exemption or the conviction of more than one misdemeanor or any felony involving the use, consumption or self-administration of any of the substances referred to in this section or any combination thereof, constitutes unprofessional conduct within the meaning of this chapter.

SEC. 15. Section 4358 of the Business and Professions Code is amended to read:

4358. The conviction of or cash compromise of a charge of violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances, or the conviction of a violation of the statutes of this state, regulating controlled substances, or dangerous drugs, constitutes unprofessional conduct within the meaning of this chapter. The record of the conviction or compromise is conclusive evidence of such unprofessional conduct. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The board may order the certificate, license, permit, registration or exemption suspended or revoked, or may decline to issue a certificate, license, permit, registration or exemption, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 16. Section 4362 of the Business and Professions Code is amended to read:

4362. Except as otherwise authorized by law, knowingly selling, furnishing, giving away or administering or offering to sell, furnish, give away or administer any Schedule I or II controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code to a habitué or addict constitutes unprofessional conduct within the meaning of this chapter.

SEC. 17. Section 4363 of the Business and Professions Code is

amended to read:

4363. The violation of any of the statutes of this state regulating controlled substances and dangerous drugs constitutes unprofessional conduct within the meaning of this chapter.

SEC. 18. Section 4521 of the Business and Professions Code is amended to read:

4521. The board may suspend or revoke a license issued under this chapter for any of the following reasons:

(a) Unprofessional conduct, which includes but is not limited to any of the following:

(1) Incompetence or gross negligence in carrying out usual psychiatric technician functions.

(2) A conviction of practicing medicine without a license in violation of Chapter 5 (commencing with Section 2000) of Division 2 of this code, the record of conviction being conclusive evidence thereof.

(3) The use of advertising relating to psychiatric technician services which violates Section 17500 of this code.

(4) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug as defined in Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of the Business and Professions Code.

(5) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of the Business and Professions Code, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(6) Be convicted of a criminal offense involving the falsification of records concerning prescription, possession, or consumption of any of the substances described in paragraphs (4) and (5) of this subdivision, in which event the record of the conviction is conclusive evidence of such conviction. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline.

(7) Be committed or confined by a court of competent jurisdiction for intemperate use of or addiction to the use of any of the substances described in paragraphs (4) and (5) of this subdivision, in which event the court order of commitment or confinement is prima facie evidence of such commitment or confinement.

(8) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in paragraph (4) of this

subdivision.

(b) Procuring a certificate or license by fraud, misrepresentation or mistake.

(c) Procuring, or aiding, or abetting, or attempting, or agreeing or offering to procure or assist at a criminal abortion.

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or terms of this chapter.

(e) Giving any false statement or information in connection with an application.

(f) Conviction of any offense substantially related to the qualifications, functions, and duties of a psychiatric technician, in which event the record of the conviction shall be conclusive evidence of such conviction. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline.

(g) Impersonating any applicant or acting as proxy for an applicant in any examination required by this chapter.

(h) Impersonating another practitioner, or permitting another person to use his or her certificate or license.

(i) The use of excessive force upon or the mistreatment or abuse of any patient.

(j) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a licensed physician or not, in the performance of or arranging for a violation of any of the provisions of Article 13 (commencing with Section 2360) of Chapter 5 of Division 2.

SEC. 19. Section 4883 of the Business and Professions Code is amended to read:

4883. The board may deny, revoke, or suspend a license or assess a fine as provided in Section 4875 for any of the following:

(a) Conviction of a crime substantially related to the qualifications, functions, or duties of veterinary medicine, surgery, or dentistry, in which case the record of such conviction shall be conclusive evidence.

(b) For having professional connection with or lending one's name to any illegal practitioner of veterinary medicine and the various branches thereof.

(c) Violation or attempting to violate, directly or indirectly, any of the provisions of this chapter.

(d) Fraud or dishonesty in applying, treating or reporting on tuberculin or other biological tests.

(e) Employment of anyone but a veterinarian licensed in the State of California to demonstrate the use of biologics in the treatment of animals.

(f) False or misleading advertising having for its purpose or intent deception or fraud.

(g) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Conviction of a charge of violating any federal statutes or rules

or any statute or rule of this state, regulating dangerous drugs or controlled substances. The record of the conviction is conclusive evidence thereof. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The board may order the license suspended or revoked, or assess a fine, or decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

(2) The use of or prescribing for or administering to himself or herself, any controlled substance; or the use of any of the dangerous drugs specified in Section 4211 of this code, or of alcoholic beverages to the extent, or in such a manner as to be dangerous or injurious to a person licensed under this chapter, or to any other person or to the public, or to the extent that such use impairs the ability of such person so licensed to conduct with safety the practice authorized by the license; or the conviction of more than one misdemeanor or any felony involving the use, consumption or self-administration of any of the substances referred to in this section or any combination thereof and the record of the conviction is conclusive evidence; a plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section; the board may order the license suspended or revoked or assess a fine, or may decline to issue a license, when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

(3) A violation of any federal statute, or rule or regulation or any of the statutes or rules or regulations of this state regulating dangerous drugs or controlled substances.

(h) Failure to keep one's premises and all equipment therein in a clean and sanitary condition.

(i) Fraud, deception, negligence, or incompetence in the practice of veterinary medicine.

(j) Aiding or abetting in any acts which are in violation of any of the provisions of this chapter.

(k) The employment of fraud, misrepresentation, or deception in obtaining such license.

(*l*) The revocation by a sister state or territory of a license or certificate by virtue of which one is licensed to practice veterinary medicine in that state or territory;

(m) Conviction on a charge of cruelty to animals.

(n) Disciplinary action taken by any public agency for any act substantially related to the practice of veterinary medicine.

SEC. 20. Section 4955 of the Business and Professions Code is amended to read:

4955. The committee may deny, suspend, or revoke, or impose probationary conditions upon, the certificate of any acupuncturist if he or she is guilty of unprofessional conduct which has endangered or is likely to endanger the health, safety, or welfare of the public.

Such unprofessional conduct shall include the following:

(a) Securing a certificate by fraud or deceit.

(b) Committing a fraudulent or dishonest act as an acupuncturist resulting in substantial injury to another.

(c) Using any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug, or alcoholic beverage to an extent or in a manner dangerous to himself or herself, or to any other person, or to the public, and to an extent that such use impairs his or her ability to engage in the practice of acupuncture with safety to the public.

(d) Conviction of a crime substantially related to the qualifications, functions, or duties of an acupuncturist, the record of conviction being conclusive evidence thereof.

(e) Improper advertising.

(f) Violating or conspiring to violate the terms of this chapter.

SEC. 21. Section 6581 of the Business and Professions Code is amended to read:

6581. Habitual drunkenness or habitual addiction to the use of any controlled substance constitutes a cause for disciplinary action.

SEC. 21.5. Section 6581 of the Business and Professions Code is amended and renumbered to read:

6574. Habitual drunkenness or habitual addiction to the use of any controlled substance constitutes a cause for disciplinary action.

SEC. 22. Section 7431 of the Business and Professions Code is amended to read:

7431. The grounds for disciplinary action are as follows:

(a) Failure of a person, firm or corporation operating a cosmetological establishment or school of cosmetology or engaged in the practice of cosmetology or any of its branches to comply with the requirements of this chapter.

(b) Failure to comply with the rules governing sanitary conditions, adopted by the board and approved by the State Department of Health, for the regulation of cosmetological establishments, schools of cosmetology or the practice of cosmetology.

(c) Failure to comply with the rules adopted by the board for the regulation of cosmetological establishments, schools of cosmetology, or the practice of cosmetology.

(d) Obtaining practice in cosmetology, or any branch thereof, or money, or any other thing of value, by fraudulent misrepresentation.

(e) Gross negligence.

(f) Repeated similar negligent acts.

(g) Incompetence.

(h) Continued practice by a person knowingly having an infectious or contagious disease.

(i) Habitual drunkenness, or addiction to the use of any controlled substance.

(j) Advertisement by means of knowingly false or deceptive statements.

(k) Permitting a certificate of registration or license to be used where the holder is not personally, actively and continuously engaged in business.

(*l*) Failure to display the license or sanitary rules and regulations in a conspicuous place.

(m) Conviction of any crime substantially related to the qualifications, functions, or duties of the registration or license holder, in which case the record of conviction or a certified copy, shall be conclusive evidence thereof.

(n) Engaging, outside of a licensed school of cosmetology or cosmetological establishment and for compensation in any form whatever, in any practice for which a license is required under this chapter, except that when such service is necessary because of the illness or other physical incapacity of the person with respect to whom it is performed, it may be performed by a licensee obtained for the purpose from a licensed cosmetological establishment.

(o) Any action or conduct which would have warranted the denial of a certificate or license.

SEC. 23. Section 24200.5 of the Business and Professions Code is amended to read:

24200.5. Notwithstanding the provisions of Section 24200, the department shall revoke a license upon any of the following grounds:

(a) If a retail licensee has knowingly permitted the illegal sale, or negotiations for such sales, of controlled substances or dangerous drugs upon his licensed premises. Successive sales, or negotiations for such sales, over any continuous period of time shall be deemed evidence of such permission. As used in this section, "controlled substances" shall have the same meaning as is given that term in Article 1 (commencing with Section 11000) of Chapter 1 of Division 10 of the Health and Safety Code, and "dangerous drugs" shall have the same meaning as is given that term in Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of this code.

(b) If the licensee has employed or permitted any persons to solicit or encourage others, directly or indirectly, to buy them drinks in the licensed premises under any commission, percentage, salary, or other profit-sharing plan, scheme, or conspiracy.

SEC. 24. Section 44011 of the Education Code is amended to read:

44011. "Controlled substance offense" as used in Sections 44346, 44425, 44436, 44836, and 45123 means any one or more of the following offenses:

(a) Any offense in Sections 11350 to 11355, inclusive, 11366, 11368, 11377 to 11382, inclusive, and 11550 of the Health and Safety Code.

(b) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would have been punished as one or more of the above-mentioned offenses.

(c) Any offense committed under former Sections 11500 to 11503, inclusive, 11557, 11715, and 11721 of the Health and Safety Code.

(d) Any attempt to commit any of the above-mentioned offenses.

SEC. 25. Section 44345 of the Education Code is amended to read:

44345. The commission may deny any application for the issuance of a credential or for the renewal of a credential made by any applicant who falls under any of the following categories:

(a) Lacks the qualifications which are prescribed by law or regulations adopted by the commission pursuant thereto.

(b) Is physically or mentally so disabled as to be rendered unfit to perform the duties authorized by the credential for which he or she applies. However, the mere fact that an applicant has sought or received psychiatric treatment shall not be considered as preliminary evidence of mental disability and shall not provoke special scrutiny of such applicant's qualifications for a credential.

(c) Is addicted to the use of intoxicating beverages to excess.

(d) Is addicted to the use of controlled substances.

(e) Has committed any act involving moral turpitude.

(f) Has had a certification document revoked.

(g) Has intentionally practiced or attempted to practice any material deception or fraud in his or her application.

(h) Fails or refuses to furnish reasonable evidence of identification or good moral character.

(i) Has been convicted of any offense defined in subdivision 1 of Section 314 of the Penal Code prior to September 7, 1955.

Any denial pursuant to subdivisions (a) to (e), inclusive, shall be based upon reasons related to the applicant's fitness to teach or fitness to perform other duties for which that applicant is certificated, or competence to perform the duties which the credential would authorize the applicant to perform.

SEC. 26. Section 44346 of the Education Code is amended to read:

44346. (a) The commission shall deny any application for the issuance of a credential or for the renewal of a credential made by any applicant who comes within any of the following classes:

(1) Has been determined to be a sexual psychopath under the provisions of Article 1 (commencing with Section 6300), Chapter 2, Part 2, Division 6 of the Welfare and Institutions Code or under similar provisions of law of any other state.

(2) Has been convicted of any sex offense as defined in Section 44010.

(3) Has been convicted of a controlled substance offense as defined in Section 44011.

(b) Notwithstanding paragraphs (2) and (3) of subdivision (a), no

person shall be denied a credential solely on the basis that he or she has been convicted of a crime specified in paragraphs (2) and (3) of subdivision (a) if the person has obtained a certificate of rehabilitation under Section 4852.01 and following of the Penal Code, and if his or her probation has been terminated and the information or accusation has been dismissed pursuant to Section 1203.4 of the Penal Code.

(c) Notwithstanding paragraph (3) of subdivision (a) or subdivision (b), the commission may issue a credential to a person convicted of a controlled substance offense as defined in Section 44011 if the commission determines from the evidence presented that the person has been rehabilitated for at least five years, or has received a certificate of rehabilitation and pardon pursuant to Section 4852.01 of the Penal Code, or if the accusation or information against the person has been dismissed and he or she has been released from all disabilities and penalties resulting from the offense pursuant to Section 1203.4 of the Penal Code.

SEC. 27. Section 44425 of the Education Code is amended to read:

44425. Whenever the holder of any credential issued by the State Board of Education or the Commission for Teacher Preparation and Licensing has been convicted of any sex offense as defined in Section 44010 or controlled substance offense as defined in Section 44011, the commission shall forthwith suspend the credential. If the conviction is reversed and the holder is acquitted of the offense in a new trial or the charges against him or her are dismissed, the commission shall forthwith terminate the suspension of the credential. When the conviction becomes final or when imposition of sentence is suspended, the commission shall forthwith revoke the credential.

SEC. 28. Section 44436 of the Education Code is amended to read:

44436. Whenever the holder of a certificate issued by a county board of education has been convicted of any sex offense as defined in Section 44010 or controlled substance offense as defined in Section 44011, the county board of education shall forthwith suspend the certificate. If the conviction is reversed and the holder is acquitted of the offense in a new trial or the charges against him or her are dismissed, the board shall forthwith terminate the suspension of the certificate. When the conviction becomes final or when imposition of sentence is suspended, the board shall forthwith revoke the certificate.

SEC. 29. Section 44836 of the Education Code is amended to read:

44836. Governing boards of school districts shall not employ or retain in employment persons in public school service who have been convicted of any sex offense as defined in Section 44010 or controlled substance offense as defined in Section 44011. If, however, any such conviction is reversed and the person is acquitted of the offense in a new trial or the charges against him or her are dismissed, this section does not prohibit his or her employment thereafter.

However, a governing board may employ a person convicted of a controlled substance offense in a position requiring certification

qualifications if such person holds an appropriate credential issued by the Commission for Teacher Preparation and Licensing.

SEC. 30. Section 44940 of the Education Code is amended to read:

44940. Whenever any certificated employee of a school district is charged with the commission of any sex offense as defined in Section 44010 by complaint, information, or indictment filed in a court of competent jurisdiction, the governing board of the school district shall immediately place the employee upon compulsory leave of absence for a period of time extending for not more than 10 days after the date of the entry of the judgment in the proceedings. Such employee's teaching or service credential shall be automatically suspended for the same period of time. The governing board of the school district may extend the compulsory leave of absence of the employee beyond such period by giving notice to the employee within 10 days after the entry of judgment in the proceedings that the employee will be dismissed at the expiration of 30 days from the date of service of the notice, unless the employee demands a hearing as provided in this article.

Any employee placed upon compulsory leave of absence pursuant to this section shall continue to be paid his or her regular salary during the period of his or her compulsory leave of absence if and during such time as he or she furnishes to the school district a suitable bond, or other security acceptable to the governing board, as a guarantee that the employee will repay to the school district the amount of salary so paid to him or her during the period of the compulsory leave of absence in case the employee is convicted of such charges, or fails or refuses to return to service following an acquittal of the offense or dismissal of the charges. If the employee is acquitted of the offense, or the charges against the employee are dismissed, the school district shall reimburse the employee for the cost of the bond upon his or her return to service in the school district.

If the employee does not elect to furnish bond, or other security acceptable to the governing board of the district, and if the employee is acquitted of the offense, or the charges against him or her are dismissed, the school district shall pay to the employee his or her full compensation for the period of the compulsory leave of absence upon his or her return to service in the school district.

Whenever any certificated employee of a school district is charged with the commission of any controlled substance offense as defined in Section 44011 or 87011, or a violation of Section 261.5 of the Penal Code, Sections 11357 to 11361, inclusive, 11363, or 11364 of the Health and Safety Code, insofar as such sections relate to any controlled substances except marijuana, mescaline, peyote, or tetrahydrocannabinols, by complaint, information, or indictment filed in a court of competent jurisdiction, the governing board of the school district may immediately place the employee upon compulsory leave in accordance with the procedure in this section.

Any action taken pursuant to this section by a governing board

shall be reported immediately to the Commission for Teacher Preparation and Licensing. The commission shall give priority to the investigation and resolution of such cases.

SEC. 31. Section 45123 of the Education Code is amended to read:

45123. No person shall be employed or retained in employment by a school district who has been convicted of any sex offense as defined in Section 44010 or controlled substance offense as defined in Section 44011. If, however, any such conviction is reversed and the person is acquitted of the offense in a new trial or the charges against him or her are dismissed, this section does not prohibit his or her employment thereafter.

Further, the governing board of a school district may employ a person convicted of a controlled substance offense if the governing board of the school district determines, from the evidence presented, that the person has been rehabilitated for at least five years.

The governing board shall determine the type and manner of presentation of the evidence, and the determination of the governing board as to whether or not the person has been rehabilitated is final.

SEC. 32. Section 76033 of the Education Code is amended to read:

76033. As used in this article, "good cause" includes, but is not limited to, the following offenses:

(a) Continued disruptive behavior, continued willful disobedience, habitual profanity or vulgarity, or the open and persistent defiance of the authority of, or persistent abuse of, college personnel.

(b) Assault, battery, or any threat of force or violence upon a student or college personnel.

(c) Willful misconduct which results in injury or death to a student or college personnel or which results in cutting, defacing, or other injury to any real or personal property owned by the district.

(d) The use, sale, or possession on campus of, or presence on campus under the influence of, any controlled substance, or any poison classified as such by Schedule D in Section 4160 of the Business and Professions Code.

(e) Willful or persistent smoking in any area where smoking has been prohibited by law or by regulation of the governing board.

(f) Persistent, serious misconduct where other means of correction have failed to bring about proper conduct.

SEC. 33. Section 87009 of the Education Code is amended to read:

87009. A plea or verdict of guilty or a finding of guilt by a court in a trial without a jury is deemed to be a conviction within the meaning of Sections 87335, 87405, and 88022 of this code, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the withdrawal of the plea of guilty and entering a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusations or information. The record of such conviction of a sex offense as defined in Section 87010 or of a controlled substance offense defined in Section 87011 shall be

sufficient proof of conviction of a crime involving moral turpitude for the purposes of Sections 87453, 87467, 87484, and 87732 to 87939, inclusive, relating to the dismissal of permanent employees.

SEC. 34. Section 87011 of the Education Code is amended to read:

87011. "Controlled substance offense" as used in Sections 87290, 87335, 87405, and 88022 means any one or more of the following offenses:

(a) Any offense in Sections 11350 to 11355, inclusive, 11366, 11368, 11377 to 11382, inclusive, and 11550 of the Health and Safety Code.

(b) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would have been punished as one or more of the above-mentioned offenses.

(c) Any offense committed under former Sections 11500 to 11503, inclusive, 11557, 11715, and 11721 of the Health and Safety Code.

(d) Any attempt to commit any of the above-mentioned offenses.

SEC. 35. Section 87290 of the Education Code is amended to read:

87290. (a) The Board of Governors of the California Community Colleges shall deny any application for the issuance of a credential authorized by this article made by any applicant who comes within any of the following classes:

(1) Has been determined to be a mentally disordered sex offender under the provisions of Article 1 (commencing with Section 6300), Chapter 2, Part 2, Division 6 of the Welfare and Institutions Code or under similar provisions of law of any other state.

(2) Has been convicted of any sex offense as defined in Section 87010.

(3) Has been convicted of a controlled substance offense as defined in Section 87011.

(b) Notwithstanding paragraphs (2) and (3) of subdivision (a), no person shall be denied a credential solely on the basis that he or she has been convicted of a crime specified in paragraphs (2) and (3) of subdivision (a) if he or she has obtained or applied for a certificate of rehabilitation under Section 4852.01 and following of the Penal Code, and if his or her probation has been terminated and the information or accusation has been dismissed pursuant to Section 1203.4 of the Penal Code.

(c) Notwithstanding paragraph (3) of subdivision (a) or subdivision (b), the board of governors may issue a credential to a person convicted of a controlled substance offense as defined in Section 87011 if the board of governors determines from the evidence presented that the person has been rehabilitated for at least five years, or has received a certificate of rehabilitation and pardon pursuant to Section 4852.01 of the Penal Code, or if the accusation or information against the person has been dismissed and he or she has been released from all disabilities and penalties resulting from the offense pursuant to Section 1203.4 of the Penal Code.

SEC. 36. Section 87335 of the Education Code is amended to read:

87335. Whenever the holder of any credential issued by the board

of governors or the State Board of Education has been convicted of any sex offense as defined in Section 87010 or controlled substance offense as defined in Section 87011, the board of governors shall forthwith suspend the credential. If the conviction is reversed and the holder is acquitted of the offense in a new trial or the charges against him or her are dismissed, the board of governors shall forthwith terminate the suspension of the credential. When the conviction becomes final or when imposition of sentence is suspended, the board of governors shall forthwith revoke the credential.

SEC. 37. Section 87405 of the Education Code is amended to read:

87405. Governing boards of commmunity college districts shall not employ or retain in employment persons in public school service who have been convicted of any sex offense as defined in Section 87010 or controlled substance offense as defined in Section 87011. If, however, any such conviction is reversed and the person is acquitted of the offense in a new trial or the charges against him or her are dismissed, this section does not prohibit his or her employment thereafter.

However, a governing board may employ a person convicted of a controlled substance offense in a position requiring certification qualifications if such a person holds an appropriate credential issued by the board of governors.

SEC. 38. Section 88022 of the Education Code is amended to read:

88022. No person shall be employed or retained in employment by a community college district who has been convicted of any sex offense as defined in Section 87010 or controlled substance offense as defined in Section 87011. If, however, any such conviction is reversed and the person is acquitted of the offense in a new trial or the charges against him or her are dismissed, this section does not prohibit his or her employment thereafter.

Further, the governing board of a community college district may employ a person convicted of a controlled substance offense if the governing board of the district determines, from the evidence presented, that the person has been rehabilitated for at least five years.

The governing board shall determine the type and manner of presentation of the evidence, and the determination of the governing board as to whether or not the person has been rehabilitated is final.

SEC. 39. Section 89535 of the Education Code is amended to read:

89535. Any permanent or probationary employee may be dismissed, demoted, or suspended for the following causes:

(a) Immoral conduct.
(b) Unprofessional conduct.
(c) Dishonesty.
(d) Incompetency.
(e) Addiction to the use of controlled substances.
(f) Failure or refusal to perform the normal and reasonable duties

of the position.

(g) Conviction of a felony or conviction of any misdemeanor involving moral turpitude.

(h) Fraud in securing appointment.

(i) Drunkenness on duty.

SEC. 40. Section 818.7 of the Government Code is amended to read:

818.7. No board, commission, or any public officer or employee of the state or of any district, county, city and county, or city is liable for any damage or injury to any person resulting from the publication of any reports, records, prints, or photographs of or concerning any person convicted of violation of any law relating to the use, sale, or possession of controlled substances, when such publication is to school authorities for use in instruction on the subject of controlled substances or to any person when used for the purpose of general education. However, the name of any person concerning whom any such reports, records, prints, or photographs are used shall be kept confidential and every reasonable effort shall be made to maintain as confidential any information which may tend to identify such person.

SEC. 41. Section 18935 of the Government Code is amended to read:

18935. The board may refuse to examine or, after examination, may refuse to declare as an eligible or may withhold or withdraw from certification, prior to appointment, anyone who comes under any of the following categories:

(a) Lacks any of the requirements established by the board for the examination or position for which he or she applies.

(b) At the time of examination has permanent status in a position of equal or higher class than the examination or position for which he or she applies.

(c) Is physically or mentally so disabled as to be rendered unfit to perform the duties of the position to which he or she seeks appointment.

(d) Is addicted to the use of intoxicating beverages to excess.

(e) Is addicted to the use of controlled substances.

(f) Has been convicted of a felony, or convicted of a misdemeanor involving moral turpitude.

(g) Has been guilty of infamous or notoriously disgraceful conduct.

(h) Has been dismissed from any position for any cause which would be a cause for dismissal from the state service.

(i) Has resigned from any position not in good standing or in order to avoid dismissal.

(j) Has intentionally attempted to practice any deception or fraud in his or her application, in his or her examination or in securing his or her eligibility.

(k) Has waived appointment three times after certification from the same employment list.

(*l*) Has failed to reply within a reasonable time, as specified by the board, to communications concerning his or her availability for employment.

(m) Has made himself or herself unavailable for employment by requesting that his or her name be withheld from certification.

(n) Is, in accordance with board rule, found to be unsuited or not qualified for employment.

SEC. 42. Section 19572 of the Government Code is amended to read:

19572. Each of the following constitutes cause for discipline of an employee, or person whose name appears on any employment list:

(a) Fraud in securing appointment.

(b) Incompetency.

(c) Inefficiency.

(d) Inexcusable neglect of duty.

(e) Insubordination.

(f) Dishonesty.

(g) Drunkenness on duty.

(h) Intemperance.

(i) Addiction to the use of controlled substances.

(j) Inexcusable absence without leave.

(k) Conviction of a felony or conviction of a misdemeanor involving moral turpitude. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction within the meaning of this section.

(*l*) Immorality.

(m) Discourteous treatment of the public or other employees.

(n) Improper political activity.

(o) Willful disobedience.

(p) Misuse of state property.

(q) Violation of this part or board rule.

(r) Violation of the prohibitions set forth in accordance with Section 19990.

(s) Refusal to take and subscribe any oath or affirmation which is required by law in connection with his or her employment.

(t) Other failure of good behavior either during or outside of duty hours which is of such a nature that it causes discredit to his or her agency or his or her employment.

(u) Any negligence, recklessness, or intentional act which results in the death of a patient of a state hospital serving the mentally disabled or the developmentally disabled.

(v) The use during duty hours, for training or target practice, of any material which is not authorized therefor by the appointing power.

SEC. 42.5. Section 19572 of the Government Code is amended to read:

19572. Each of the following constitutes cause for discipline of an employee, or person whose name appears on any employment list:

(a) Fraud in securing appointment.
(b) Incompetency.
(c) Inefficiency.
(d) Inexcusable neglect of duty.
(e) Insubordination.
(f) Dishonesty.
(g) Drunkenness on duty.
(h) Intemperance.
(i) Addiction to the use of controlled substances.
(j) Inexcusable absence without leave.
(k) Conviction of a felony or conviction of a misdemeanor involving moral turpitude. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction within the meaning of this section.
(*l*) Immorality.
(m) Discourteous treatment of the public or other employees.
(n) Improper political activity.
(o) Willful disobedience.
(p) Misuse of state property.
(q) Violation of this part or board rule.
(r) Violation of the prohibitions set forth in accordance with Section 19990.
(s) Refusal to take and subscribe any oath or affirmation which is required by law in connection with the employment.
(t) Other failure of good behavior either during or outside of duty hours which is of such a nature that it causes discredit to the appointing authority or the person's employment.
(u) Any negligence, recklessness, or intentional act which results in the death of a patient of a state hospital serving the mentally disabled or the developmentally disabled.
(v) The use during duty hours, for training or target practice, of any material which is not authorized therefor by the appointing power.
(w) Unlawful discrimination, including harassment, on the basis of race, religious creed, color, national origin, ancestry, physical handicap, marital status, sex, or age, against the public or other employees while acting in the capacity of a state employee.
(x) Unlawful retaliation against any other state officer or employee or member of the public who in good faith reports, discloses, divulges, or otherwise brings to the attention of, the Attorney General, or any other appropriate authority, any facts or information relative to actual or suspected violation of any law of this state or the United States occurring on the job or directly related thereto.
SEC. 43. Section 11007 of the Health and Safety Code is repealed.
SEC. 44. Section 11054 of the Health and Safety Code is repealed.
SEC. 44.5. Section 11054 is added to the Health and Safety Code, to read:

11054. (a) The controlled substances listed in this section are included in Schedule I.

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Acetylmethadol.
(2) Allylprodine.
(3) Alphacetylmethadol.
(4) Alphameprodine.
(5) Alphamethadol.
(6) Alpha-methylfentanyl.
(7) Benzethidine.
(8) Betacetylmethadol.
(9) Betameprodine.
(10) Betamethadol.
(11) Betaprodine.
(12) Clonitazene.
(13) Destromoramide.
(14) Diampromide.
(15) Diethylthiambutene.
(16) Ditenoxin.
(17) Dimenoxadol.
(18) Dimepheptanol.
(19) Dimethylthiambutene.
(20) Dioxaphetyl butyrate.
(21) Dipipanone.
(22) Ethylmethylthiambutene.
(23) Etonitazene.
(24) Etoxendine.
(25) Furethidine.
(26) Hydroxypethidine.
(27) Ketobemidone.
(28) Levomoramide.
(29) Levophenacylmorphan.
(30) Morpheridine.
(31) Noracymethadol.
(32) Norlevorphanol.
(33) Normethadone.
(34) Norpipanone.
(35) Phenadoxone.
(36) Phenampromide.
(37) Phenomorphan.
(38) Phenoperidine.
(39) Piritramide.
(40) Proheptazine.
(41) Properidine.
(42) Propiram.

(43) Racemoramide.
(44) Sufentanil.
(45) Tilidine.
(46) Trimeperidine.

(c) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine.
(2) Acetyldihydrocodeine.
(3) Benzylmorphine.
(4) Codeine methylbromide.
(5) Codeine-N-Oxide.
(6) Cyprenorphine.
(7) Desomorphine.
(8) Dihydromorphine.
(9) Drotebanol.
(10) Etorphine (except hydrochloride salt)
(11) Heroin.
(12) Hydromorphinol.
(13) Methyldesorphine.
(14) Methyldihydromorphine.
(15) Morphine methylbromide.
(16) Morphine methylsulfonate.
(17) Morphine-N-Oxide.
(18) Myrophine.
(19) Nicorphine.
(20) Nicomorphine.
(21) Normorphine.
(22) Pholcodine.
(23) Thebacon.

(d) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only, the term "isomer" includes the optical, position, and geometric isomers):

(1) 4-bromo-2,5 dimethoxy-amphetamine — Some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA.

(2) 2,5-dimethoxyamphetamine — Some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA.

(3) 4-methoxyamphetamine — Some trade or other names: 4-methoxy-alpha-methylphenethylamine, paramethoxyamphetamine, PMA.

(4) 5-methoxy-3,4-methylenedioxy-amphetamine.

(5) 4-methyl-2,5-dimethoxy-amphetamine — Some trade or other names: 4-methyl-2,5 dimethoxy-alpha-methylphenethylamine; "DOM"; and "STP".

(6) 3,4-methylenedixoy amphetamine.

(7) 3,4,5-trimethoxy amphetamine.

(8) Bufotenine — Some trade or other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5 indolol; N,N-dimethylserolonin, 5-hydroxy-N,N-dimethyltryptamine; mappine.

(9) Diethyltrypatamine — Some trade or other names: N,N-Diethyltryptamine; DET.

(10) Dimethyltryptamine — Some trade or other names: DMT.

(11) Ibogaine — Some trade or other names: 7-Ethyl-6,6beta, 7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1',2':1,2] azepino [5,4-b] indole; Tabernanthe iboga.

(12) Lysergic acid diethylamide.

(13) Marijuana.

(14) Mescaline.

(15) Peyote — Meaning all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts (interprets 21 U.S.C. Sec. 812(c), Schedule 1(c)(12)).

(16) N-ethyl-3-piperidyl benzilate.

(17) N-methyl-3-piperidyl benzilate.

(18) Psilocybin.

(19) Psilocyn.

(20) Tetrahydrocannabinols. Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: delta 1 cis or trans tetrahydrocannabinol, and their optical isomers; delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; delta 3,4 cis or trans tetrahydrocannabinol, and its optical isomers.

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered).

(21) Ethylamine analog of phencyclidine — Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE.

(22) Pyrrolidine analog of phencyclidine — Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP.

(23) Thiophene analog of phencyclidine — Some trade or other names: 1-[1-(2 thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP.

(e) Depressants. Unless specifically excepted or unless listed in

another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Mecloqualone.

(2) Methaqualone.

SEC. 45. Section 11055 of the Health and Safety Code is repealed.

SEC. 45.5. Section 11055 is added to the Health and Safety Code, to read:

11055. (a) The controlled substances listed in this section are included in Schedule II.

(b) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, with the exception of naloxone hydrochloride (N-allyl-14-hydroxy-nordihydromorphinone hydrochloride), but including the following:

(A) Raw opium.

(B) Opium extracts.

(C) Opium fluid extracts.

(D) Powdered opium.

(E) Granulated opium.

(F) Tincture of opium.

(G) Apomorphine.

(H) Codeine.

(I) Ethylmorphine.

(J) Hydrocodone.

(K) Hydromorphone.

(L) Metopon.

(M) Morphine.

(N) Oxycodone.

(O) Oxymorphone.

(P) Thebaine.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy).

(c) Opiates. Unless specifically excepted or unless in another schedule, any of the following opiates, including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

(1) Alphaprodine.
(2) Anileridine.
(3) Bezitramide.
(4) Bulk dextropropoxyphene (non-dosage forms).
(5) Dihydrocodeine.
(6) Dihenoxylate.
(7) Fentanyl.
(8) Isomethadone.
(9) Levomethorphan.
(10) Levorphanol.
(11) Metazocine.
(12) Methadone.
(13) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane.
(14) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid.
(15) Pethidine (meperidine).
(16) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine.
(17) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate.
(18) Pethidine-Intermediate-C,-1-methyl 4-phenylpiperidine-4-carboxylic acid.
(19) Phenazocine.
(20) Piminodine.
(21) Racemethorphan.
(22) Racemorphan.

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.
(2) Methamphetamine, its salts, isomers, and salts of its isomers.
(3) Phenmetrazine and its salts.
(4) Methylphenidate.

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts,

isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Amobarbital.

(2) Pentobarbital.

(3) Phencyclidine.

(4) Secobarbital.

(f) Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine:

(A) Phenylacetone. Some trade or other names: phenyl-2 propanone; P2P; benzyl methyl ketone; methyl benzyl ketone.

(2) Immediate precursors to phencyclidine (PCP):

(A) 1-phenylcyclohexylamine.

(B) 1-piperidinocyclohexanecarbonitrile (PCC).

The Attorney General, or his or her designee, may, by rule or regulations, add additional analogs of phencyclidine to those enumerated in this subdivision after notice, posting, and hearing pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The Attorney General shall, in the calendar year of the regular session of the Legislature in which the rule or regulation is adopted, submit a draft of a proposed bill to each house of the Legislature which would incorporate the analogs into this code. No rule or regulation shall remain in effect beyond January 1 after the calendar year of the regular session in which the draft of the proposed bill is submitted to each house. However, if the draft of the proposed bill is submitted during the recess of the Legislature exceeding 45 calendar days, the rule or regulation shall be effective until January 1 after the next calendar year.

SEC. 46. Section 11056 of the Health and Safety Code is repealed.

SEC. 46.5. Section 11056 is added to the Health and Safety Code, to read:

11056. (a) The controlled substances listed in this section are included in Schedule III.

(b) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of those isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under Section 1308.32 of Title 21 of the Code of Federal Regulations, and any other drug of the quantitative

composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances.

(2) Benzphetamine.

(3) Chlorphentermine.

(4) Clortermine.

(5) Mazindol.

(6) Phendimetrazine.

(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any compound, mixture, or preparation containing any of the following:

(A) Amobarbital

(B) Secobarbital

(C) Pentobarbital

or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.

(2) Any suppository dosage form containing any of the following:

(A) Amobarbital

(B) Secobarbital

(C) Pentobarbital

or any salt of any of these drugs and approved by the federal Food and Drug Administration for marketing only as a suppository.

(3) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof.

(4) Chlorhexadol.

(5) Glutethimide.

(6) Lysergic acid.

(7) Lysergic acid amide.

(8) Methyprylon.

(9) Sulfondiethylmethane.

(10) Sulfonethylmethane.

(11) Sulfonmethane.

(d) Nalorphine.

(e) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(3) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

(4) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts.

(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts.

(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

SEC. 47. Section 11057 of the Health and Safety Code is repealed.

SEC. 47.5. Section 11057 is added to the Health and Safety Code, to read:

11057. (a) The controlled substances listed in this section are included in Schedule IV.

(b) Schedule IV shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(c) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane).

(d) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Barbital.
(2) Chloral betaine.
(3) Chloral hydrate.
(4) Chlordiazepoxide.
(5) Clonazepam.
(6) Clorazepate.
(7) Dizepam.
(8) Ethchlorvynol.

(9) Ethinamate.
(10) Flurazepam.
(11) Lorazepam.
(12) Mebutamate.
(13) Meprobamate.
(14) Methohexital.
(15) Methylphenobarbital (Mephobarbital).
(16) Oxazepam.
(17) Paraldehyde.
(18) Petrichoral.
(19) Phenobarbital.
(20) Prazepam.

(e) Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position, or geometric), and salts of those isomers, whenever the existence of those salts, isomers, and salts of isomers is possible:

(1) Fenfluramine.

(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of those isomers is possible within the specific chemical designation:

(1) Diethylpropion.
(2) Phentermine.
(3) Pemoline (including organometallic complexes and chelates thereof).
(4) Pipradrol.
(5) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

(g) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:

(1) Pentazocine.

SEC. 48. Section 11058 of the Health and Safety Code is repealed.

SEC. 48.5. Section 11058 is added to the Health and Safety Code, to read:

11058. (a) The controlled substances listed in this section are included in Schedule V.

(b) Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(c) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound,

mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

(6) Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(d) Loperamide.

SEC. 49. Section 11150.5 of the Health and Safety Code is repealed.

SEC. 50. Section 11350 of the Health and Safety Code is amended to read:

11350. (a) Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b) or (c) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison.

(b) Except as otherwise provided in this division, every person who possesses any controlled substance specified in subdivision (e) of Section 11054 shall be punished by imprisonment in the county jail for not more than one year or in the state prison.

SEC. 51. Section 11351 of the Health and Safety Code is amended to read:

11351. Except as otherwise provided in this division, every person who possesses for sale (1) any controlled substance specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, shall be punished by imprisonment in the state prison for two, three, or four years.

SEC. 52. Section 11352 of the Health and Safety Code is amended to read:

11352. Except as otherwise provided in this division, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport (1) any controlled substance specified in

subdivision (b), (c), or (e) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison for three, four, or five years.

SEC. 53. Section 11353 of the Health and Safety Code is amended to read:

11353. Every person 18 years of age or over who in any voluntary manner solicits, induces, encourages, or intimidates any minor with the intent that the minor shall knowingly violate any provision of this chapter or Section 11550 with respect to (1) a controlled substance which is specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, who hires, employs, or uses a minor to knowingly and unlawfully transport, carry, sell, give away, prepare for sale, or peddle any such controlled substance, or who unlawfully sells, furnishes, administers, gives, or offers to sell, furnish, administer, or give, any such controlled substance to a minor shall be punished by imprisonment in the state prison for a period of three, four, or five years.

SEC. 54. Section 11354 of the Health and Safety Code is amended to read:

11354. (a) Every person under the age of 18 years who in any voluntary manner solicits, induces, encourages, or intimidates any minor with the intent that the minor shall knowingly violate any provision of this chapter or Section 11550, who hires, employs, or uses a minor to knowingly and unlawfully transport, carry, sell, give away, prepare for sale, or peddle (1) any controlled substance specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, or who unlawfully sells, furnishes, administers, gives, or offers to sell, furnish, administer, or give, any such controlled substance to a minor shall be punished by imprisonment in the state prison.

(b) This section is not intended to affect the jurisdiction of the juvenile court.

SEC. 55. Section 11355 of the Health and Safety Code is amended to read:

11355. Every person who agrees, consents, or in any manner offers to unlawfully sell, furnish, transport, administer, or give (1) any controlled substance specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (13), (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c)

of Section 11055, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug to any person, or who offers, arranges, or negotiates to have any such controlled substance unlawfully sold, delivered, transported, furnished, administered, or given to any person and who then sells, delivers, furnishes, transports, administers, or gives, or offers, arranges, or negotiates to have sold, delivered, transported, furnished, administered, or given to any person any other liquid, substance, or material in lieu of any such controlled substance shall be punished by imprisonment in the county jail for not more than one year, or in the state prison.

SEC. 55.5. Section 11361.5 of the Health and Safety Code is amended to read:

11361.5. (a) Records of any court of this state, any public or private agency that provides services upon referral under Section 1000.2 of the Penal Code, or of any state agency or local public agency pertaining to the arrest or conviction of any person for a violation of subdivision (b), (c), (d), or (e) of Section 11357 or subdivision (b) of Section 11360, shall not be kept beyond two years from the date of the conviction, or from the date of the arrest if there was no conviction, except with respect to a violation of subdivision (e) of Section 11357 the records shall be retained until the offender attains the age of 18 years at which time the records shall be destroyed as provided in this section. Any court or agency having custody of the records shall provide for the timely destruction of the records in accordance with subdivision (c). The requirements of this subdivision do not apply to records of any conviction occurring prior to January 1, 1976, or records of any arrest not followed by a conviction occurring prior to that date.

(b) This subdivision applies only to records of convictions and arrests not followed by conviction occurring prior to January 1, 1976, for any of the following offenses:

(1) Any violation of Section 11357 or a statutory predecessor thereof.

(2) Unlawful possession of a device, contrivance, instrument, or paraphernalia used for unlawfully smoking marijuana, in violation of Section 11364, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

(3) Unlawful visitation or presence in a room or place in which marijuana is being unlawfully smoked or used, in violation of Section 11365, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

(4) Unlawfully using or being under the influence of marijuana, in violation of Section 11550, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

Any person subject to an arrest or conviction for those offenses may apply to the Department of Justice for destruction of records pertaining to the arrest or conviction if two or more years have elapsed since the date of the conviction, or since the date of the arrest if not followed by a conviction. The application shall be submitted

upon a form supplied by the Department of Justice and shall be accompanied by a fee, which shall be established by the department in an amount which will defray the cost of administering this subdivision and costs incurred by the state under subdivision (c), but which shall not exceed thirty-seven dollars and fifty cents ($37.50). The application form shall be made available at every local police or sheriff's department and from the Department of Justice and may require that information which the department determines is necessary for purposes of identification.

The department may request, but not require, the applicant to include a self-administered fingerprint upon the application. If the department is unable to sufficiently identify the applicant for purposes of this subdivision without the fingerprint or without additional fingerprints, it shall so notify the applicant and shall request the applicant to submit any fingerprints which may be required to effect identification, including a complete set if necessary, or, alternatively, to abandon the application and request a refund of all or a portion of the fee submitted with the application, as provided in this section. If the applicant fails or refuses to submit fingerprints in accordance with the department's request within a reasonable time which shall be established by the department, or if the applicant requests a refund of the fee, the department shall promptly mail a refund to the applicant at the address specified in the application or at any other address which may be specified by the applicant. However, if the department has notified the applicant that election to abandon the application will result in forfeiture of a specified amount which is a portion of the fee, the department may retain a portion of the fee which the department determines will defray the actual costs of processing the application, provided the amount of the portion retained shall not exceed ten dollars ($10).

Upon receipt of a sufficient application, the Department of Justice shall destroy records of the department, if any, pertaining to the arrest or conviction in the manner prescribed by subdivision (c) and shall notify the Federal Bureau of Investigation, the law enforcement agency which arrested the applicant, and, if the applicant was convicted, the probation department which investigated the applicant and the Department of Motor Vehicles, of the application. Each state or local agency receiving a notice from the Department of Justice shall destroy records of the agency, if any, pertaining to the arrest or conviction specified in the notice, in the manner prescribed by subdivision (c). The application form and the notices from the department to the agencies specified in this subdivision shall be destroyed by the department or agency, as the case may be, at the time the other records of the arrest or conviction are destroyed.

(c) Destruction of records of arrest or conviction pursuant to subdivision (a) or (b) shall be accomplished by permanent obliteration of all entries or notations upon the records pertaining to the arrest or conviction, and the record shall be prepared again so that it appears that the arrest or conviction never occurred.

However, where (1) the only entries upon the record pertain to the arrest or conviction and (2) the record can be destroyed without necessarily effecting the destruction of other records, then the document constituting the record shall be physically destroyed.

(d) Notwithstanding subdivision (a) or (b), written transcriptions of oral testimony in court proceedings and published judicial appellate reports are not subject to this section. Additionally, no records shall be destroyed pursuant to subdivision (a) if the defendant or a codefendant has filed a civil action against the peace officers or law enforcement jurisdiction which made the arrest or instituted the prosecution and if the agency which is the custodian of those records has received a certified copy of the complaint in the civil action, until the civil action has finally been resolved. Immediately following the final resolution of the civil action, records subject to subdivision (a) shall be destroyed pursuant to subdivision (c) if more than two years have elapsed from the date of the conviction or arrest without conviction.

(e) Costs incurred by local agencies in complying with the provisions of subdivision (c) shall be reimbursed as provided in Section 2231 of the Revenue and Taxation Code.

SEC. 56. Section 11364 of the Health and Safety Code is amended to read:

11364. It is unlawful to possess an opium pipe or any device, contrivance, instrument or paraphernalia used for unlawfully injecting or smoking (1) a controlled substance specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) a controlled substance which is a narcotic drug classified in Schedule III, IV, or V.

SEC. 57. Section 11364.5 of the Health and Safety Code is amended to read:

11364.5. (a) Except as authorized by law, no person shall maintain or operate any place of business in which drug paraphernalia is kept, displayed or offered in any manner, sold, furnished, transferred or given away unless such drug paraphernalia is completely and wholly kept, displayed or offered within a separate room or enclosure to which persons under the age of 18 years not accompanied by a parent or legal guardian are excluded. Each entrance to such a room or enclosure shall be signposted in reasonably visible and legible words to the effect that drug paraphernalia is kept, displayed or offered in such room or enclosure and that minors, unless accompanied by a parent or legal guardian, are excluded.

(b) Except as authorized by law, no owner, manager, proprietor or other person in charge of any room or enclosure, within any place of business, in which drug paraphernalia is kept, displayed or offered in any manner, sold, furnished, transferred or given away shall permit or allow any person under the age of 18 years to enter, be in, remain in or visit such room or enclosure unless such minor person

is accompanied by one of his or her parents or by his or her legal guardian.

(c) Unless authorized by law, no person under the age of 18 years shall enter, be in, remain in or visit any room or enclosure in any place of business in which drug paraphernalia is kept, displayed or offered in any manner, sold, furnished, transferred or given away unless accompanied by one of his or her parents or by his or her legal guardian.

(d) As used in this section, "drug paraphernalia" means all equipment, products, and materials of any kind which are intended for use or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. "Drug paraphernalia" includes, but is not limited to, all of the following:

(1) Kits intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

(2) Kits intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

(3) Isomerization devices intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.

(4) Testing equipment intended for use or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances.

(5) Scales and balances intended for use or designed for use in weighing or measuring controlled substances.

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, intended for use or designed for use in cutting controlled substances.

(7) Separation gins and sifters intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.

(8) Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in compounding controlled substances.

(9) Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging small quantities of controlled substances.

(10) Containers and other objects intended for use or designed for use in storing or concealing controlled substances.

(11) Hypodermic syringes, needles, and other objects intended for use or designed for use in parenterally injecting controlled substances into the human body.

(12) Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as the following:

(A) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.

(B) Water pipes.

(C) Carburetion tubes and devices.

(D) Smoking and carburetion masks.

(E) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand.

(F) Miniature cocaine spoons, and cocaine vials.

(G) Chamber pipes.

(H) Carburetor pipes.

(I) Electric pipes.

(J) Air-driven pipes.

(K) Chillums.

(L) Bongs.

(M) Ice pipes or chillers.

(e) In determining whether an object is drug paraphernalia, a court or other authority may consider, in addition to all other logically relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use.

(2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance.

(3) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of this section. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this section shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.

(4) Instructions, oral or written, provided with the object concerning its use.

(5) Descriptive materials, accompanying the object which explain or depict its use.

(6) National and local advertising concerning its use.

(7) The manner in which the object is displayed for sale.

(8) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

(9) The existence and scope of legitimate uses for the object in the community.

(10) Expert testimony concerning its use.

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

(1) Any pharmacist or other authorized person who sells or

furnishes drug paraphernalia described in paragraph (11) of subdivision (d) upon the prescription of a physician, dentist, podiatrist or veterinarian.

(2) Any physician, dentist, podiatrist or veterinarian who furnishes or prescribes drug paraphernalia described in paragraph (11) of subdivision (d) to his or her patients.

(3) Any manufacturer, wholesaler or retailer licensed by the California State Board of Pharmacy to sell or transfer drug paraphernalia described in paragraph (11) of subdivision (d).

(g) Notwithstanding any other provision of law, including Section 11374, violation of this section shall not constitute a criminal offense, but operation of a business in violation of the provisions of this section shall be grounds for revocation or nonrenewal of any license, permit, or other entitlement previously issued by a city, county, or city and county for the privilege of engaging in such business and shall be grounds for denial of any future license, permit, or other entitlement authorizing the conduct of such business or any other business, if the business includes the sale of drug paraphernalia.

SEC. 58. Section 11365 of the Health and Safety Code is amended to read:

11365. It is unlawful to visit or to be in any room or place where any controlled substances which are specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or which are narcotic drugs classified in Schedule III, IV, or V, are being unlawfully smoked or used with knowledge that such activity is occurring.

SEC. 59. Section 11366 of the Health and Safety Code is amended to read:

11366. Every person who opens or maintains any place for the purpose of unlawfully selling, giving away, or using any controlled substance which is (1) specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (13), (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) which is a narcotic drug classified in Schedule III, IV, or V, shall be punished by imprisonment in the county jail for a period of not more than one year or the state prison.

SEC. 60. Section 11370 of the Health and Safety Code is amended to read:

11370. (a) Any person convicted of violating Section 11350, 11353, 11355, 11357, 11359, 11360, 11361, 11363, 11366, or 11368, or of committing any offense referred to in those sections, shall not, in any case, be granted probation by the trial court or have the execution of the sentence imposed upon him or her suspended by the court, if he or she has been previously convicted of any offense described in subdivision (c).

(b) Any person who was 18 years of age or over at the time of the commission of the offense and is convicted for the first time of selling, furnishing, administering, or giving a controlled substance which is

(1) specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) which is a narcotic drug classified in Schedule III, IV, or V, to a minor or inducing a minor to use such a controlled substance in violation of law shall not, in any case, be granted probation by the trial court or have the execution of the sentence imposed upon him or her suspended by the court.

(c) Any previous conviction of any of the following offenses, or of an offense under the laws of another state or of the United States which, if committed in this state, would have been punishable as such an offense, shall render a person ineligible for probation or suspension of sentence pursuant to subdivision (a) of this section:

(1) Any felony offense described in this division involving a controlled substance specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (13), (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055.

(2) Any felony offense described in this division involving a narcotic drug classified in Schedule III, IV, or V.

SEC. 61. Section 11373 of the Health and Safety Code is amended to read:

11373. Whenever any person is granted probation by the trial court after conviction for possession of any controlled substance, such trial court shall, as a condition of probation, order such person to secure education or treatment from a local community agency designated by such court, if such service is available and the person is likely to benefit from the service.

If such defendant is a minor, the trial court shall also order his or her parents or guardian to participate in such education or treatment to the extent the court determines will aid the education or treatment of the minor.

If a minor is found by a juvenile court to have been in possession of any controlled substance, in addition to any other order it may make, such juvenile court shall order the minor to receive education or treatment from a local community agency designated by such court, if such service is available and the person is likely to benefit from the service, and it shall also order his or her parents or guardian to participate in such education or treatment to the extent the court determines will aid the education or treatment of the minor.

SEC. 62. Section 11375 of the Health and Safety Code is repealed.

SEC. 63. Section 11375 is added to the Health and Safety Code, to read:

11375. (a) As to the substances specified in subdivision (c), this section, and not Sections 11377, 11378, 11379, and 11380, shall apply.

(b) Every person who possesses for sale, or who sells, any substance specified in subdivision (c) shall be punished by imprisonment in the county jail for a period of not more than one year or state prison.

(c) This section shall apply to any material, compound, mixture, or preparation containing any of the following substances:

(1) Chlordiazepoxide.
(2) Clonazepam.
(3) Clorazepate.
(4) Diazepam.
(5) Flurazepam.
(6) Lorazepam.
(7) Mebutamate.
(8) Oxazepam.
(9) Prazepam.
(10) Temazepam.
(11) Halazepam.
(12) Alprazolam.
(13) Propoxyphene.
(14) Diethylpropion.
(15) Phentermine.
(16) Pemoline.
(17) Fenfluramine.

SEC. 64. Section 11376 of the Health and Safety Code is repealed.

SEC. 65. Section 11377 of the Health and Safety Code is amended to read:

11377. (a) Except as otherwise provided in Article 8 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance which is (1) classified in Schedule III, IV, or V, and which is not a narcotic drug or (2) which is specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), or specified in subdivision (d) or (e) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in the county jail for a period of not more than one year or the state prison.

SEC. 66. Section 11378 of the Health and Safety Code is amended to read:

11378. Except as otherwise provided in Article 8 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses for sale any controlled substance which is (1) classified in Schedule III, IV, or V and which is not a narcotic drug or (2) which is specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), or specified in subdivision (d) or (e) of Section 11055, shall be punished by imprisonment in the state prison.

SEC. 67. Section 11378.5 of the Health and Safety Code is amended to read:

11378.5. Except as otherwise provided in Article 8 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses for sale any controlled substance which is specified in subdivision (f) of Section 11055, shall

be punished by imprisonment in the state prison for a period of three, four, or five years.

SEC. 68. Section 11379 of the Health and Safety Code is amended to read:

11379. Except as otherwise provided in Article 8 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any controlled substance which is (1) classified in Schedule III, IV, or V and which is not a narcotic drug or (2) which is specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), or specified in subdivision (d) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in the state prison for a period of two, three, or four years.

SEC. 69. Section 11379.5 of the Health and Safety Code is amended to read:

11379.5. Except as otherwise provided in Article 8 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any controlled substance which is specified in subdivision (f) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison for a period of three, four, or five years.

SEC. 70. Section 11380 of the Health and Safety Code is amended to read:

11380. Every person 18 years of age or over who violates any provision of this chapter involving controlled substances which are (1) classified in Schedule III, IV, or V and which are not narcotic drugs or (2) which are specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), or specified in subdivision (d) of Section 11055, by the use of a minor as agent, who solicits, induces, encourages, or intimidates any minor with the intent that the minor shall violate any provision of this article involving those controlled substances or who unlawfully furnishes, offers to furnish, or attempts to furnish those controlled substances to a minor shall be punished by imprisonment in the state prison for a period of three, four, or five years.

(b) Nothing contained in this section shall apply to a registered pharmacist furnishing controlled substances pursuant to a prescription.

SEC. 71. Section 11380.5 of the Health and Safety Code is

amended to read:

11380.5. (a) Every person 18 years of age or over who violates any provision of this chapter involving controlled substances which are specified in subdivision (f) of Section 11055, by the use of a minor as agent, who solicits, induces, encourages, or intimidates any minor with the intent that the minor shall violate any provision of this article involving such controlled substances or who unlawfully furnishes, offers to furnish, or attempts to furnish such controlled substances to a minor shall be punished by imprisonment in the state prison for a period of three, four, or five years.

(b) Nothing contained in this section shall apply to a registered pharmacist furnishing controlled substances pursuant to a prescription.

SEC. 72. Section 11382 of the Health and Safety Code is amended to read:

11382. Every person who agrees, consents, or in any manner offers to unlawfully sell, furnish, transport, administer, or give any controlled substance which is (1) classified in Schedule III, IV, or V and which is not a narcotic drug, or (2) which is specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), or specified in subdivision (d) or (e) of Section 11055, to any person, or offers, arranges, or negotiates to have any such controlled substance unlawfully sold, delivered, transported, furnished, administered, or given to any person and then sells, delivers, furnishes, transports, administers, or gives, or offers, or arranges, or negotiates to have sold, delivered, transported, furnished, administered, or given to any person any other liquid, substance, or material in lieu of any such controlled substance shall be punished by imprisonment in the county jail for not more than one year, or in the state prison.

SEC. 73. Section 11383 of the Health and Safety Code is amended to read:

11383. (a) Any person who possesses both methylamine and phenyl-2-propanone (phenylacetone) at the same time with the intent to manufacture methamphetamine, or who possesses both ethylamine and phenyl-2-propanone (phenylacetone) at the same time with the intent to manufacture N-ethylamphetamine, is guilty of a felony and shall be punished by imprisonment in the state prison.

(b) Any person who possesses at the same time any of the following combinations, or a combination product thereof, with intent to manufacture phencyclidine (PCP) or any of its analogs specified in subdivision (f) of Section 11055 is guilty of a felony and shall be punished by imprisonment in the state prison for three, four, or five years:

(1) Piperidine and cyclohexanone.

(2) Pyrolidine and cyclohexanone.

(3) Morpoline and cyclohexanone.

(c) For purposes of this section, possession of immediate precursors sufficient for the manufacture of methylamine,

ethylamine, phenyl-2-propanone, piperidine, cyclohexanone, pyrolidine, or morpoline shall be deemed to be possession of such a derivative substance. Additionally, possession of any compound or mixture containing piperidine, cyclohexanone, pyrolidine, or morpoline shall be deemed to be possession of such substance.

(d) The provisions of subdivisions (a), (b), and (c) shall not apply to drug manufacturers licensed by this state or persons authorized by regulation of the Board of Pharmacy to possess such substances or combinations of substances.

SEC. 74. Section 11550 of the Health and Safety Code is amended to read:

11550. (a) No person shall use, or be under the influence of any controlled substance which is (1) specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) which is a narcotic drug classified in Schedule III, IV, or V, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating any provision of this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days or more than one year in the county jail. The court may place a person convicted under this subdivision on probation for a period not to exceed five years and shall in all cases in which probation is granted require as a condition thereof that such person be confined in the county jail for at least 90 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 90 days in confinement in the county jail.

(b) No person shall use, or be under the influence of, any controlled substance which is specified in subdivision (f) of Section 11055, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating any provision of this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 30 days nor more than one year in the county jail. The court may place a person convicted under this subdivision on probation for a period not to exceed five years and shall in all cases in which probation is granted require as a condition thereof that the person be confined in the county jail for at least 30 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 30 days in confinement in the county jail.

SEC. 75. Section 11591 of the Health and Safety Code is amended to read:

11591. Every sheriff or chief of police, upon the arrest for any of the controlled substance offenses enumerated in Section 11590, or Section 11364, insofar as that section relates to paragraph (12) of

subdivision (d) of Section 11054, of any school employee, shall do either of the following:

(1) If such school employee is a teacher in any of the public schools of this state, he or she shall immediately notify by telephone the superintendent of schools of the school district employing such teacher and shall immediately give written notice of the arrest to the Commission for Teacher Preparation and Licensing and to the superintendent of schools in the county wherein such person is employed. Upon receipt of such notice, the county superintendent of schools shall immediately notify the governing board of the school district employing such person.

(2) If such school employee is a nonteacher in any of the public schools of this state, he or she shall immediately notify by telephone the superintendent of schools of the school district employing such nonteacher and shall immediately give written notice of the arrest to the governing board of the school district employing such person.

(3) If such school employee is a teacher in any private school of this state, he or she shall immediately notify by telephone the private school authority employing such teacher and shall immediately give written notice of the arrest to the private school authority employing such teacher.

SEC. 76. Section 26665 of the Health and Safety Code is amended to read:

26665. Nothing in this article shall be construed to relieve any person from any requirement prescribed by or under authority of law with respect to drugs now included or which may hereafter be included within the classification stated in Division 10 (commencing with Section 11000) of this code or in the applicable federal law relating to controlled substances.

SEC. 77. Section 10369.12 of the Insurance Code is amended to read:

10369.12. A disability policy may contain a provision in the form set forth herein.

Intoxicants and controlled substances: The insurer shall not be liable for any loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any controlled substance unless administered on the advice of a physician.

SEC. 78. Section 222 of the Penal Code is amended to read:

222. Every person guilty of administering to another any chloroform, ether, laudanum, or any controlled substance, anaesthetic, or intoxicating agent, with intent thereby to enable or assist himself or herself or any other person to commit a felony, is guilty of a felony.

SEC. 79. Section 261 of the Penal Code is amended to read:

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

(1) Where a person is incapable, because of mental disease, defect, or disorder or because of physical disability, of giving consent,

and this is known or reasonably should be known to the person committing the act. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disease, defect, or disorder or physical disability rendered the alleged victim incapable of giving consent.

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

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

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

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

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

SEC. 79.5. Section 261 of the Penal Code is amended to read:

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

(1) Where a person is incapable, because of mental disease, defect, or disorder or because of physical disability, of giving consent, and this is known or reasonably should be known to the person committing the act. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disease, defect, or disorder or physical disability rendered the alleged victim incapable of giving consent.

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

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

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

(5) Where a person submits under the belief that the person

committing the act is the victim's spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief.

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

(7) Where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. As used in this paragraph, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

SEC. 80. Section 647 of the Penal Code is amended to read:

647. Every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

(a) Who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view.

(b) Who solicits or who engages in any act of prostitution. As used in this subdivision, "prostitution" includes any lewd act between persons for money or other consideration.

(c) Who accosts other persons in any public place or in any place open to the public for the purpose of begging or soliciting alms.

(d) Who loiters in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act.

(e) Who loiters or wanders upon the streets or from place to place without apparent reason or business and who refuses to identify himself or herself and to account for his or her presence when requested by any peace officer so to do, if the surrounding circumstances are such as to indicate to a reasonable person that the public safety demands such identification.

(f) Who is found in any public place under the influence of intoxicating liquor, any drug, controlled substance, toluene, any substance defined as a poison in Schedule D of Section 4160 of the Business and Professions Code, or any combination of any intoxicating liquor, drug, controlled substance, toluene, or any such poison, in such a condition that he or she is unable to exercise care for his or her own safety or the safety of others, or by reason of his or her being under the influence of intoxicating liquor, any drug, controlled substance, toluene, any substance defined as a poison in Schedule D of Section 4160 of the Business and Professions Code, or any combination of any intoxicating liquor, drug, toluene, or any such poison, interferes with or obstructs or prevents the free use of any

street, sidewalk, or other public way.

(ff) When a person has violated subdivision (f) of this section, a peace officer, if he or she is reasonably able to do so, shall place the person, or cause him or her to be placed, in civil protective custody. Such person shall be taken to a facility, designated pursuant to Section 5170 of the Welfare and Institutions Code, for the 72-hour treatment and evaluation of inebriates. A peace officer may place a person in civil protective custody with that kind and degree of force which would be lawful were he or she effecting an arrest for a misdemeanor without a warrant. No person who has been placed in civil protective custody shall thereafter be subject to any criminal prosecution or juvenile court proceeding based on the facts giving rise to such placement. This subdivision shall not apply to the following persons:

(1) Any person who is under the influence of any drug, or under the combined influence of intoxicating liquor and any drug.

(2) Any person who a peace officer has probable cause to believe has committed any felony, or who has committed any misdemeanor in addition to subdivision (f) of this section.

(3) Any person who a peace officer in good faith believes will attempt escape or will be unreasonably difficult for medical personnel to control.

(g) Who loiters, prowls, or wanders upon the private property of another, at any time, without visible or lawful business with the owner or occupant thereof. As used in this subdivision, "loiter" means to delay or linger without a lawful purpose for being on the property and for the purpose of committing a crime as opportunity may be discovered.

(h) Who, while loitering, prowling, or wandering upon the private property of another, at any time, peeks in the door or window of any inhabited building or structure located thereon, without visible or lawful business with the owner or occupant thereof.

(i) Who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control thereof.

In any accusatory pleading charging a violation of subdivision (b) of this section, if the defendant has been once previously convicted of a violation of that subdivision, the previous conviction shall be charged in the accusatory pleading; and, if the previous conviction is found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or is admitted by the defendant, the defendant shall be imprisoned in the county jail for a period of not less than 45 days and shall not be eligible for release upon completion of sentence, on parole, or on any other basis until he or she has served a period of not less than 45 days in the county jail. In no such case shall the trial court grant probation or suspend the execution of sentence imposed upon the defendant.

In any accusatory pleading charging a violation of subdivision (b) of this section, if the defendant has been previously convicted two

or more times of a violation of that subdivision, each such previous conviction shall be charged in the accusatory pleading; and, if two or more of such previous convictions are found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or are admitted by the defendant, the defendant shall be imprisoned in the county jail for a period of not less than 90 days and shall not be eligible for release upon completion of sentence, on parole, or on any other basis until he or she has served a period of not less than 90 days in the county jail. In no such case shall the trial court grant probation or suspend the execution of sentence imposed upon the defendant.

SEC. 81. Section 849 of the Penal Code is amended to read:

849. (a) When an arrest is made without a warrant by a peace officer or private person, the person arrested, if not otherwise released, shall, without unnecessary delay, be taken before the nearest or most accessible magistrate in the county in which the offense is triable, and a complaint stating the charge against the arrested person shall be laid before such magistrate.

(b) Any peace officer may release from custody, instead of taking such person before a magistrate, any person arrested without a warrant whenever:

(1) He or she is satisfied that there are insufficient grounds for making a criminal complaint against the person arrested.

(2) The person arrested was arrested for intoxication only, and no further proceedings are desirable.

(3) The person was arrested only for being under the influence of a controlled substance or drug and such person is delivered to a facility or hospital for treatment and no further proceedings are desirable.

(c) Any record of arrest of a person released pursuant to paragraphs (1) and (3) of subdivision (b) shall include a record of release. Thereafter, such arrest shall not be deemed an arrest, but a detention only.

SEC. 82. Section 1237 of the Penal Code is amended to read:

1237. An appeal may be taken by the defendant:

(a) From a final judgment of conviction except as provided in Section 1237.5. A sentence, an order granting probation, or the commitment of a defendant for insanity, the indeterminate commitment of a defendant as a mentally disordered sex offender, or the commitment of a defendant for controlled substance addiction shall be deemed to be a final judgment within the meaning of this section. Upon appeal from a final judgment the court may review any order denying a motion for a new trial.

(b) From any order made after judgment, affecting the substantial rights of the party.

SEC. 83. Section 1466 of the Penal Code is amended to read:

1466. An appeal may be taken from a judgment or order of an inferior court, in a criminal case, to the superior court of the county in which such inferior court is located, in the following cases.

(a) By the people:

(1) From an order or judgment dismissing or otherwise terminating the action before the defendant has been placed in jeopardy or where the defendant has waived jeopardy.

(2) From a judgment for the defendant upon the sustaining of a demurrer.

(3) From an order granting a new trial.

(4) From an order arresting judgment.

(5) From any order made after judgment affecting the substantial rights of the people.

(b) By the defendant:

(1) From a final judgment of conviction. A sentence, an order granting probation, a conviction in a case in which before final judgment the defendant is committed for insanity or is given an indeterminate commitment as a mentally disordered sex offender, or the conviction of a defendant committed for controlled substance addiction shall be deemed to be a final judgment within the meaning of this section. Upon appeal from a final judgment or an order granting probation the court may review any order denying a motion for a new trial.

(2) From any order made after judgment affecting his or her substantial rights.

SEC. 84. Section 2772 of the Penal Code is amended to read:

2772. Any person who, without authority, interferes with or in any way interrupts the work of any prisoners employed pursuant to this article, and any person not authorized by law, who gives or attempts to give to any prisoner so employed any controlled substances or any intoxicating liquors of any kind whatever, or firearms, weapons or explosives of any kind, is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the state prison and shall be disqualified from holding any state office or position in the employ of this state. Any person who interferes with the discipline or good conduct of any prisoner employed pursuant to this article, while such prisoner is in the confines or limits of the state prison road camp is guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for a term not more than six months, or by a fine of not more than two hundred dollars ($200), or by both such fine and imprisonment. Any peace officer or any officer or guard of any state prison or any superintendent of such road work, having in charge the prisoners employed upon such highways or state roads, may arrest without a warrant any person violating any provisions of this article.

SEC. 85. Section 2790 of the Penal Code is amended to read:

2790. Any person, who, without authority, interferes with or in any way interrupts the work of any convict used pursuant to this article and any person not authorized by law, who gives or attempts to give to any state prison convict so employed any controlled substances, or any intoxicating liquors of any kind whatever, or firearms, weapons or explosives of any kind is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the

state prison and shall be disqualified from holding any state office or position in the employ of this state. Any person who interferes with the discipline or good conduct of any convict used pursuant to this article, while such convict is in such camps is guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for a term not more than six months, or by a fine of not more than four hundred dollars ($400), or by both such fine and imprisonment. Any peace officer or any officer or guard of any state prison or any superintendent of such work, having in charge the convicts used in such camps, may arrest without a warrant any person violating any provisions of this article.

SEC. 86. Section 4573 of the Penal Code is amended to read:

4573. Except when otherwise authorized by law, or when authorized by the person in charge of the prison or other institution referred to in this section or by an officer of the institution empowered by the person in charge of the institution to give such authorization, any person, who knowingly brings or sends into, or knowingly assists in bringing into, or sending into, any state prison, prison road camp, prison forestry camp, or other prison camp or prison farm or any other place where prisoners of the state are located under the custody of prison officials, officers or employees, or into any county, city and county, or city jail, road camp, farm or other place where prisoners or inmates are located under custody of any sheriff, chief of police, peace officer, probation officer or employees, or within the grounds belonging to any such institution, any controlled substance, the possession of which is prohibited by Division 10 (commencing with Section 11000) of the Health and Safety Code, any device, contrivance, instrument, or paraphernalia intended to be used for unlawfully injecting or consuming a controlled substance, or any alcoholic beverage, is guilty of a felony.

SEC. 87. Section 4573.5 of the Penal Code is amended to read:

4573.5. Any person who knowingly brings into any state prison or other institution under the jurisdiction of the Department of Corrections, or into any prison camp, prison farm, or any other place where prisoners or inmates of such institutions are located under the custody of prison or institution officials, officers, or employees, or into any county, city and county or city jail, road camp, farm or any other institution or place where prisoners or inmates are being held under the custody of any sheriff, chief of police, peace officer, probation officer, or employees, or within the grounds belonging to any such institution or place, any drugs, other than controlled substances, in any manner, shape, form, dispenser, or container, or any device, contrivance, instrument, or paraphernalia intended to be used for unlawfully injecting or consuming any drug other than controlled substances, without having authority so to do by the rules of the Department of Corrections, the rules of the prison, institution, camp, farm, place, or jail, or by the specific authorization of the warden, superintendent, jailer, or other person in charge of the prison, jail, institution, camp, farm, or place, is guilty of a felony.

SEC. 88. Section 4573.6 of the Penal Code is amended to read:

4573.6. Any person who knowingly has in his or her possession in any state prison, prison road camp, prison forestry camp, or other prison camp or prison farm or any place where prisoners of the state are located under the custody of prison officials, officers, or employees, or in any county, city and county or city jail, road camp, farm, or any place or institution, where prisoners or inmates are being held under the custody of any sheriff, chief of police, peace officer, probation officer, or employees, or within the grounds belonging to any such jail, road camp, farm, place or institution, any controlled substances, or drugs in any manner, shape, form, dispenser or container, any device, contrivance, instrument, or paraphernalia intended to be used for unlawfully injecting or consuming controlled substances or drugs, or alcoholic beverage, without being authorized to so possess the same by the rules of the Department of Corrections, rules of the prison or jail, institution, camp, farm or place, or by the specific authorization of the warden, superintendent, jailer or other person in charge of the prison, jail, institution, camp, farm or place, is guilty of a felony.

SEC. 89. Section 6102 of the Penal Code is amended to read:

6102. The primary purpose of the medical facility shall be the receiving, segregation, confinement, treatment and care of males under the custody of the Department of Corrections or any agency thereof who are any of the following:

(a) Mentally ill.

(b) Mentally defective.

(c) Epileptic.

(d) Addicted to the use of controlled substances.

(e) Otherwise physically or mentally abnormal, including, but not limited to, psychopaths and sex offenders.

(f) Suffering from any chronic disease or condition.

SEC. 90. Section 21407.5 of the Public Utilities Code is amended to read:

21407.5. It is unlawful for any person, while under the influence of intoxicating liquor or controlled substances to operate an aircraft in the air, or on the ground or water, or to engage in parachuting for sport.

SEC. 91. Section 1803 of the Vehicle Code is amended to read:

1803. (a) Every clerk of a court, or judge if there be no clerk, in which a person was convicted of any violation of this code, and of any offense involving use or possession of controlled substances under Division 10 (commencing with Section 11000) of the Health and Safety Code, and of any violation of any other statute relating to the safe operation of vehicles, shall prepare within 10 days after conviction and immediately forward to the department at its office at Sacramento an abstract of the record of the court covering the case in which the person was so convicted. If sentencing is not pronounced in conjunction with the conviction, the abstract shall be forwarded to the department within 10 days after sentencing and the

abstract shall be certified by the person so required to prepare it to be true and correct.

For the purposes of this section, a forfeiture of bail shall be equivalent to a conviction.

(b) The following violations are not required to be reported under subdivision (a) of this section:

(1) Division 3.5 (commencing with Section 9840).

(2) Section 21113, with respect to parking violations.

(3) Chapter 9 (commencing with Section 22500) of Division 11.

(4) Division 12 (commencing with Section 24000), except Sections 24002, 24004, 24250, 24409, 24604, 24800, 25103, Chapter 3 (commencing with Section 26301), 26707, 27151, 27800, and 27801.

(5) Division 15 (commencing with Section 35000), except Chapter 5 (commencing with Section 35550).

(6) Violations for which a person was cited as a pedestrian or while operating a bicycle.

(7) Division 16.5 (commencing with Section 38000).

(8) Sections 23221, 23223, 23225, and 23226.

(c) If the court impounds a license or orders a person to limit his or her driving pursuant to paragraph (2) of subdivision (a) of Section 23161, subdivision (b) of Section 23166, subdivision (b) of Section 23186, or subdivision (c) of Section 40508, the court shall notify the department concerning the impoundment or limitation on an abstract prepared pursuant to subdivision (a) of this section or on a separate abstract, which shall be prepared within 10 days after the impoundment or limitation was ordered and immediately forwarded to the department at its office in Sacramento.

(d) If the court determines that a prior judgment of conviction of a violation of Section 23152 or 23153 is valid or is invalid on constitutional grounds pursuant to Section 23208, the clerk of the court, or judge if there is no clerk, in which the determination is made shall prepare an abstract of that determination and forward it to the department in the same manner as an abstract of record pursuant to subdivision (a).

(e) Within 10 days of an order terminating or revoking probation under Section 23167, 23187, or 23207, the clerk of the court, or the judge if there be no clerk, in which the order terminating or revoking probation was entered, shall prepare and immediately forward to the department at its office in Sacramento an abstract of the record of the court order terminating or revoking probation and any other order of the court to the department required by law.

SEC. 92. Section 1808.5 of the Vehicle Code is amended to read:

1808.5. All records of the department relating to the physical or mental condition of any person, and convictions of any offense involving the use or possession of controlled substances under Division 10 (commencing with Section 11000) of the Health and Safety Code not arising from circumstances involving a motor vehicle, are confidential and not open to public inspection.

No provision of this article shall in any way limit the right of the

department to cooperate with the State Department of Social Services pursuant to Section 10850 of the Welfare and Institutions Code as to persons eligible for or receiving aid to the blind.

SEC. 93. Section 13202 of the Vehicle Code is amended to read:

13202. (a) A court may suspend or order that the department revoke in which case the department shall revoke the privilege of any person to operate a motor vehicle upon conviction of any offense related to controlled substances as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code when the use of a motor vehicle was involved in, or incidental to, the commission of the offense.

(b) A court shall order that the department revoke and the department shall revoke the privilege of any person to operate a motor vehicle upon conviction of a violation of Section 11350, 11351, 11352, 11353, 11357, 11359, 11360, or 11361 of the Health and Safety Code when a motor vehicle was involved in, or incidental to, the commission of such offense.

(c) The period of time for suspension or the period after revocation during which the person may not apply for a license shall be determined by the court, but in no event shall such period exceed three years from the date of conviction.

SEC. 94. Section 330 of the Welfare and Institutions Code is amended to read:

330. In any case in which a probation officer after investigation of an application for petition or other investigation he or she is authorized to make, determines that a minor is within the jurisdiction of the juvenile court or will probably soon be within such jurisdiction, the probation officer may, in lieu of filing a petition or subsequent to dismissal of a petition already filed, and with consent of the minor's parent or guardian, undertake a program of supervision of the minor, for a period not to exceed six months. Commencing on October 1, 1983, services may be extended up to an additional six months if it can be shown that the objectives of the service plan can be achieved within the extended time period. If a program of supervision is undertaken, the probation officer shall attempt to ameliorate the situation which brings the minor within, or creates the probability that the minor will be within, the jurisdiction of Section 300 by providing or arranging to contract for all appropriate child welfare services pursuant to Chapter 5 (commencing with Section 16500) of Part 4 of Division 9. No further in-home child welfare services shall be provided subsequent to these time limits. If the family has refused to cooperate with the services being provided, the probation officer may file a petition with the juvenile court pursuant to Section 332. Nothing in this section shall be construed to prevent the probation officer from filing a petition pursuant to Section 332 when otherwise authorized by law.

The program of supervision of the minor undertaken pursuant to this section may call for the minor to obtain care and treatment for the misuse of or addiction to controlled substances from a county

mental health service or other appropriate community agency.

SEC. 94.5. Section 330 of the Welfare and Institutions Code is amended to read:

330. In any case in which a probation officer after investigation of an application for petition or other investigation he or she is authorized to make, determines that a minor is within the jurisdiction of the juvenile court or will probably soon be within that jurisdiction, the probation officer may, in lieu of filing a petition or subsequent to dismissal of a petition already filed, and with consent of the minor's parent or guardian, undertake a program of supervision of the minor, for a period not to exceed six months. Commencing on October 1, 1983, services may be extended up to an additional six months if it can be shown that the objectives of the service plan can be achieved within the extended time period. If a program of supervision is undertaken, the probation officer shall attempt to ameliorate the situation which brings the minor within, or creates the probability that the minor will be within, the jurisdiction of Section 300 by providing or arranging to contract for all appropriate child welfare services pursuant to Chapter 5 (commencing with Section 16500) of Part 4 of Division 9. No further in-home child welfare services shall be provided subsequent to these time limits. If the family has refused to cooperate with the services being provided, the probation officer may file a petition with the juvenile court pursuant to Section 332. Nothing in this section shall be construed to prevent the probation officer from filing a petition pursuant to Section 332 when otherwise authorized by law.

The program of supervision of the minor undertaken pursuant to this section may call for the minor to obtain care and treatment for the misuse of or addiction to controlled substances from a county mental health service or other appropriate community agency.

Probation departments in counties designated by the department as pilot projects for in-home care programs, pursuant to Section 18964, may place, and will designate, a projected number of children to be referred each year in these projects.

SEC. 95. Section 654 of the Welfare and Institutions Code, as added by Section 18 of Chapter 1088 of the Statutes of 1982, is amended to read:

654. In any case in which a probation officer, after investigation of an application for a petition or any other investigation he or she is authorized to make concludes that a minor is within the jurisdiction of the juvenile court or will probably soon be within that jurisdiction, the probation officer may, in lieu of filing a petition to declare a minor a dependent child of the court or a minor or a ward of the court under Section 601 or requesting that a petition be filed by the prosecuting attorney to declare a minor a ward of the court under Section 602 or subsequent to dismissal of a petition already filed, and with consent of the minor and the minor's parent or guardian, delineate specific programs of supervision for the minor, for not to exceed six months, and attempt thereby to adjust the

situation which brings the minor within the jurisdiction of the court or creates the probability that the minor will soon be within that jurisdiction. Nothing in this section shall be construed to prevent the probation officer from filing a petition or requesting the prosecuting attorney to file a petition at any time within the six-month period. If the probation officer determines that the minor has not involved himself or herself in the specific programs within 60 days, the probation officer shall immediately file a petition or request that a petition be filed by the prosecuting attorney. However, when in the judgment of the probation officer the interest of the minor and the community can be protected, the probation officer shall make a diligent effort to proceed under this section.

The program of supervision of the minor undertaken pursuant to this section may call for the minor to obtain care and treatment for the misuse of or addiction to controlled substances from a county mental health service or other appropriate community agency.

Further, this section shall authorize the probation officer with consent of the minor and the minor's parent or guardian to provide the following services in lieu of filing a petition:

(a) Maintain and operate sheltered-care facilities, or contract with private or public agencies to provide these services. The placement shall be limited to a maximum of 90 days. Counseling services shall be extended to the sheltered minor and his or her family during this period of diversion services. The minor and his or her parents may be required to make full or partial reimbursement for the services rendered the minor and his or her family during the diversion process. Referrals for sheltered-care diversion may be made by the minor, his or her family, schools, law enforcement or any other private or public social service agency.

(b) Maintain and operate crisis resolution homes, or contract with private or public agencies offering these services. Residence at these facilities shall be limited to 20 days during which period individual and family counseling shall be extended the minor and his or her family. Failure to resolve the crisis within the 20-day period may result in the minor's referral to a sheltered-care facility for a period not to exceed 90 days. Referrals shall be accepted from the minor, his or her family, schools, law enforcement or any other private or public social service agency. The minor, his or her parents, or both, may be required to reimburse the county for the cost of services rendered at a rate to be determined by the county board of supervisors.

(c) Maintain and operate counseling and educational centers, or contract with private and public agencies, societies, or corporations whose purpose is to provide vocational training or skills. The centers may be operated separately or in conjunction with crisis resolution homes to be operated by the probation officer. The probation officer shall be authorized to make referrals to the appropriate existing private or public agencies offering similar services when available.

At the conclusion of the program of supervision undertaken pursuant to this section, the probation officer shall prepare and

maintain a followup report of the actual program measures taken.

SEC. 96. Section 708 of the Welfare and Institutions Code is amended to read:

708. Whenever a minor who appears to be a danger to himself or herself or others as a result of the use of controlled substances (as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code), is brought before any judge of the juvenile court, the judge may continue the hearing and proceed pursuant to this section. The court may order the minor taken to a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation. Thereupon the provisions of Section 5343 of the Welfare and Institutions Code shall apply, except that the professional person in charge of the facility shall make a written report to the court concerning the results of the evaluation of the minor.

If the professional person in charge of the facility for 72-hour evaluation and treatment reports to the juvenile court that the minor is not a danger to himself or herself or others as a result of the use of controlled substances or that the minor does not require 14-day intensive treatment, or if the minor has been certified for not more than 14 days of intensive treatment and the certification is terminated, the minor shall be released if the juvenile court proceedings have been dismissed; referred for further care and treatment on a voluntary basis, subject to the disposition of the juvenile court proceedings; or returned to the juvenile court, in which event the court shall proceed with the case pursuant to this chapter.

Any expenditure for the evaluation or intensive treatment of a minor under this section shall be considered an expenditure made under Part 2 (commencing with Section 5600) of Division 5, and shall be reimbursed by the state as are other local expenditures pursuant to that part.

SEC. 97. Section 1001.5 of the Welfare and Institutions Code is amended to read:

1001.5. Except when authorized by law, or when authorized by the person in charge of an institution or camp administered by the Youth Authority, or by an officer of the institution or camp empowered by the person in charge of the institution or camp to give such authorization, any person who knowingly brings or sends into, or who knowingly assists in bringing into, or sending into, any institution or camp, or the grounds belonging to any institution or camp, administered by the Youth Authority, any controlled substance, the possession of which is prohibited by Division 10 (commencing with Section 11000) of the Health and Safety Code, any alcoholic beverage or any firearm, weapon or explosive of any kind shall be punished by imprisonment in a county jail for not more than one year or by imprisonment in the state prison.

SEC. 98. The heading of Article 8 (commencing with Section 5340) of Chapter 2 of Part 1 of Division 5 of the Welfare and

Institutions Code is amended to read:

Article 8. Community Controlled Substances Treatment Services

SEC. 99. Section 5340 of the Welfare and Institutions Code is amended to read:

5340. It is the intention of the Legislature by enacting this article to provide legal procedures for the custody, evaluation, and treatment of users of controlled substances. The enactment of this article shall not be construed to be evidence that any person subject to its provisions is mentally disordered, or evidence that the Legislature considers that such persons are mentally disordered.

SEC. 100. Section 5341 of the Welfare and Institutions Code is repealed.

SEC. 101. Section 5341 is added to the Welfare and Institutions Code, to read:

5341. As used in this article, "controlled substances" means those substances referred to in Division 10 (commencing with Section 11000) of the Health and Safety Code.

SEC. 102. Section 5342 of the Welfare and Institutions Code is amended to read:

5342. Where other applicable sections of this part contain the phrase "a danger to himself or herself or others, or gravely disabled," such sections shall be deemed to refer to the condition of danger to self or others or grave disability as a result of the use of controlled substances, rather than by mental disorder, as such.

SEC. 103. Section 5343 of the Welfare and Institutions Code is amended to read:

5343. Notwithstanding any other provision of law, if any person is a danger to others or to himself or herself, or gravely disabled, as a result of the use of controlled substances, he or she shall be subject, insofar as possible, to the provisions of Articles 1 (commencing with Section 5150), 2 (commencing with Section 5200), 4 (commencing with Section 5250), 5 (commencing with Section 5275), and 7 (commencing with Section 5325) of this chapter, except that any custody, evaluation and treatment, or any procedure pursuant to such provisions shall only be related to and concerned with the problem of the person's use of controlled substances.

SEC. 104. Section 5344 of the Welfare and Institutions Code is amended to read:

5344. Any expenditure for the custody, evaluation, treatment, or other procedures for services rendered a person pursuant to this article shall be considered an expenditure made under the provisions of Part 2 (commencing with Section 5600) of this division, and shall be paid as are other expenditures pursuant to that part. No person shall be admitted to a state hospital for care and treatment of his or her use of controlled substances prior to screening and referral by an agency designated in the county Short-Doyle plan to provide the services.

SEC. 105. Section 11.5 of this bill incorporates amendments to Section 4227 of the Business and Professions Code proposed by both this bill and AB 3335. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 4227 of the Business and Professions Code, and (3) this bill is enacted after AB 3335, in which case Section 11 of this bill shall not become operative.

SEC. 106. Section 21.5 of this bill incorporates amendments to Section 6581 of the Business and Professions Code proposed by both this bill and AB 3623. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 6581 of the Business and Professions Code, and (3) this bill is enacted after AB 3623, in which case Section 21 of this bill shall not become operative.

SEC. 107. Section 42.5 of this bill incorporates amendments to Section 19572 of the Government Code proposed by both this bill and SB 2012. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 19572 of the Government Code, and (3) this bill is enacted after SB 2012, in which case Section 42 of this bill shall not become operative.

SEC. 108. Section 79.5 of this bill incorporates amendments to Section 261 of the Penal Code proposed by both this bill and SB 401. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 261 of the Penal Code, and (3) this bill is enacted after SB 401, in which case Section 79 of this bill shall not become operative.

SEC. 109. Section 94.5 of this bill incorporates amendments to Section 330 of the Welfare and Institutions Code proposed by both this bill and AB 1562. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 330 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 1562, in which case Section 94 of this bill shall not become operative.

SEC. 110. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1636

An act to amend Sections 14132 and 14133.1 of, to add Article 6.1 (commencing with Section 14195) to Chapter 7 of Part 3 of Division 9 of, and to repeal Section 14133.5 of, the Welfare and Institutions Code, relating to medical assistance.

[Approved by Governor September 29, 1984 Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization

controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization

controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. Such services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared-or-congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

(u) Home and community-based services approved by the United States Department of Health and Human Services may be covered to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director may seek waivers for any or all home and community-based services approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as

Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 1.1. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished

prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as

described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. Such services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared-or-congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

(u) Home and community-based services approved by the United States Department of Health and Human Services may be covered to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director may seek waivers for any or all home and community-based services approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this

subdivision.

(v) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 1.2. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial

dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an

inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. Such services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

(u) Home and community-based services approved by the United States Department of Health and Human Services may be covered to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director may seek waivers for any or all home and community-based services approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5

and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 1.3. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental

services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization

controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. Such services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

(u) Home and community-based services approved by the United States Department of Health and Human Services may be covered to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director may seek waivers for any or all home and community-based services approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the

federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 2. Section 14133.1 of the Welfare and Institutions Code is amended to read:

14133.1. (a) The director shall determine which of the utilization controls in Section 14133 shall be applied to any specific service or group of services which are subject to utilization controls. Each utilization control shall be reasonably related to the purpose for which it is imposed.

(b) Except as provided in Section 14103.6, neither prior authorization nor the limitation specified in subdivision (d) of Section 14133 shall be required for the first two services per month which are included among the services listed in subdivision (a) of Section 14132, or for the first two drug prescriptions purchased during any one month, provided that the prescription drugs are included in the Medi-Cal Drug Formulary and the prescription otherwise conforms to applicable formulary requirements.

(c) The director shall, after a determination of cost benefit, eliminate the requirement of prior authorization as a control for treatment, supplies, or equipment which cost less than one hundred dollars ($100), except for prescribed drugs, provided that the requirement of prior authorization for treatment, supplies, or equipment costing less than one hundred dollars ($100) may be reinstituted upon a finding by the department that the elimination of the requirement has resulted in unnecessary utilization, and upon notice to the Joint Legislative Budget Committee 30 days prior to the reinstitution of the requirement of prior authorization.

SEC. 4. Section 14133.5 of the Welfare and Institutions Code, as added by Chapter 1442 of the Statutes of 1974, and as amended by Chapter 1252 of the Statutes of 1977, is repealed.

SEC. 5. Article 6.1 (commencing with Section 14195) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 6.1. Medi-Cal Therapeutic Drug Utilization Review

14195. It is the intent of the Legislature in enacting this article to establish a drug utilization review system which will evaluate and enhance the therapeutic outcome of drugs prescribed for persons eligible for Medi-Cal pursuant to this chapter.

14195.1. A Medi-Cal Therapeutic Drug Utilization and Review Committee is hereby established. The committee shall be composed of 17 members who shall serve at the pleasure of the appointing powers as follows:

(a) The Governor shall appoint two representatives from the State Department of Health Services, one representative from the Health and Welfare Agency, and two representatives from schools of pharmacy.

(b) The Governor, the Speaker of the Assembly, and the Senate Rules Committee shall each appoint one representative from the following groups:

(1) Licensed pharmacists.

(2) Licensed physicians.

(3) Drug manufacturers.

(4) Medi-Cal beneficiaries.

14195.2. The Medi-Cal Therapeutic Drug Utilization and Review Committee shall set standards for evaluation of the therapeutic outcomes of prescribed drugs to be applied by an expert contractor to the department. The committee shall have the following responsibilities:

(a) Developing policy for monitoring and controlling therapeutically inappropriate drug utilization.

(b) Overseeing the establishment of a computer-based information system using the State Medicaid MMIS System, which shall provide timely information on drug prescription and consumption and shall be capable of tracking prescriptions by drug, by illness, by beneficiary, and by provider.

The committee shall consult with expert contractors experienced in therapeutically oriented drug utilization review in the discharge of this responsibility.

(c) Establishing standards, in consultation with an expert contractor experienced in the therapeutically oriented drug utilization review, for dosage, duration, and effectiveness of medications with respect to a particular diagnosis.

(d) Setting standards to serve as guidelines on misprescribing, overprescribing, and contraindicated drug use, and protocols for

informing prescribers of inappropriate prescribing.

14195.6. The department shall develop a request for a proposal, and may award a sole source contract to an expert contractor to implement the standards and practices established by the Medi-Cal Therapeutic Drug Utilization Review System through use of a therapeutically oriented drug utilization review system by July 1, 1985. The contract shall include a requirement to analyze the therapeutic outcomes of the Medi-Cal Drug Program using the California MMIS for the period of July 1, 1984, through the date the standards established by this article are implemented. Thereafter, the contractor shall submit quarterly reports to the department and the Legislature analyzing therapeutic outcomes in a manner that will allow comparisons with the experience analyzed for the period of July 1, 1984, until implementation of the standards established by this article. The analysis shall include reports on at least the following items:

(a) Compatibility of medication to diagnosis.

(b) Overprescribing of drugs.

(c) Prescription of contraindicated or incompatible drugs.

(d) Estimates of hospitalization and institutionalization in skilled nursing facilities or intermediate care facilities occurring because of the factors specified in paragraphs (a) to (c), inclusive.

(e) Estimates of hospitalization and institutionalization in skilled nursing facilities or intermediate care facilities avoided due to changes in drug regimes which result from compliance by prescribers and beneficiaries with the standards established pursuant to this article. The committee established by Section 14195.1 shall perform its functions for the pilot programs established pursuant to AB 2655, if that bill is enacted during the 1983–84 Regular Session, in addition to its responsibilities under this article.

The department is authorized to require the contractor to phase in implementation of the prescriber notification, as established by protocols for informing prescribers of inappropriate prescribing.

14195.7. This article shall not apply to any service rendered by a provider in conjunction with any capitated rate or primary care case contract negotiated pursuant to this chapter or Chapter 8 (commencing with Section 14200) by either the department or the California Medical Assistance Commission unless both parties to the contract mutually agree that application of the standards established by this article would be beneficial to the Medi-Cal eligibles enrolled in plans operating pursuant to capitated rate contracts.

14195.8. The Auditor General shall select an appropriate contractor to provide an evaluation of the Therapeutic Drug Utilization Review System established by this article with respect to all of the following issues:

(a) The impact on institutionalization of Medi-Cal eligibles by operation of the Medi-Cal therapeutic drug utilization review process.

(b) The cost impact of the Medi-Cal therapeutic drug utilization

review process.

(c) Comparison of the impacts studied under subdivisions (a) and (b) between those areas of the state in which the open drug formulary projects established by Assembly Bill 2655 of the 1983–84 Regular Session operate and the rest of the state.

(d) The evaluation report shall be submitted to the department and the Legislature no later than May 1, 1987 with recommendations whether:

(1) The Therapeutic Drug Utilization Review System established by this article is cost effective and should be continued.

(2) The combination of an open formulary and therapeutic drug reviews is superior with respect to therapeutic outcome and cost effectiveness in comparison to the operation of therapeutic drug review in conjunction with a restricted formulary.

14195.9. In no case shall the director's discretion under Section 14120 be exercised to reduce reimbursement to providers of pharmaceutical services because of increased costs in the drug component of the Medi-Cal program arising from the implementation of the open formulary concept.

14196. (a) The department shall adopt any regulations necessary to implement this article. These regulations shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for the purposes of the Administrative Procedure Act, shall be deemed an emergency, and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(b) Any provision of this article which is in conflict with any federal statute or regulation shall be inapplicable to the extent of that conflict but the remainder of the provisions shall be in effect to the extent no conflict exists.

The department shall seek all federal waivers necessary to implement this article. The provisions for which federal waivers cannot be obtained shall not be implemented, but provisions for which waivers are either obtained or found to be unnecessary shall be unaffected by the inability to obtain federal waivers for the other provisions.

(c) The department shall seek maximum federal reimbursement for the MMIS-based Drug Establishment Review System established by this article.

SEC. 6. (a) Section 1.1 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by both this bill and AB 3133. It shall only become operative if (1) both bills are enacted and become effective January 1, 1985, (2) each bill amends Section 14132 of the Welfare and Institutions Code, (3) AB 3021 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 3133, in which case Sections 1, 1.2 and 1.3 of this bill shall not become operative.

(b) Section 1.2 of this bill incorporates amendments to Section

14132 of the Welfare and Institutions Code proposed by both this bill and AB 3021. It shall only become operative if (1) both bills are enacted and become effective January 1, 1985, (2) each bill amends Section 14132 of the Welfare and Institutions Code, (3) AB 3133 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 3021, in which case Sections 1, 1.1, and 1.3 of this bill shall not become operative.

(c) Section 1.3 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by this bill, AB 3133, and AB 3021. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1985, (2) all three bills amend Section 14132 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 3133 and AB 3021, in which case Sections 1, 1.1, and 1.2 of this bill shall not become operative.

CHAPTER 1637

An act to add Section 9314 to, and to add Chapter 4.7 (commencing with Section 9390) to Division 8.5 of, the Welfare and Institutions Code, relating to elderly persons and functionally impaired adults, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. The Legislature finds and declares that despite the concerted efforts of the Legislature and the administration to establish a continuum of community-based services for long-term care and despite new and expanded services, such as Adult Day Health Care, the Multipurpose Senior Services Program, expanded Home Delivered Meals, expanded Long-Term Care Ombudsman Services, and additional state support for In-Home Supportive Services (IHSS), the state has not yet achieved the degree of coordination essential to prevent unnecessary or premature institutionalization.

The Legislature also finds that federal law authorizing federal financial participation in the programs that provide community-based long-term care limits the extent to which the different funding sources and administrative functions can be integrated. It is, however, within the state's authority to establish a single coordinating entity to promote and facilitate close cooperation and working relationships, consistency between programs, and efficient use of resources without infringing on single state agency requirements, where they may apply.

SEC. 2. It is the intent of the Legislature to foster independence

and self-reliance, maintain individual dignity, and allow persons requiring long-term care services to be an integral part of family and community life to the fullest extent possible.

To achieve this goal, it is the intent of the Legislature to provide a plan and structure whereby a continuum of long-term social and health support services may be established in communities throughout the state.

The Legislature declares the Department of Aging will be the principal department with responsibility for development of policy, implementation, and integration of a comprehensive set of noninstitutional long-term care services for the frail elderly and functionally impaired adults who are not eligible for services under programs under the jurisdiction of the State Department of Rehabilitation, the State Department of Developmental Services, or the State Department of Mental Health.

The purpose of this act is to begin the incremental development of a long-term care delivery system that provides the social and health support necessary to enable frail elderly and functionally impaired adults to remain in their own homes.

The first phase of the long-term care system shall consist of the Department of Aging sponsoring new programs in long-term care services; increasing the Adult Day Health Care programs; cooperating with the State Department of Health Services on the incremental implementation of mandatory preadmission screening for applicants to skilled nursing or intermediate care facilities; promoting efforts which address the unique long-term care needs of rural areas; increasing the Multipurpose Senior Services Programs; and testing alternative case management models. The objective is to promote the development of community-based long-term care service delivery programs that foster local community control and offer a variety of options.

SEC. 3. Section 9314 is added to the Welfare and Institutions Code, to read:

9314. The department shall establish a Long-Term Care Division which shall be responsible for administering the programs that are funded for purposes of providing community-based long-term care.

The Adult Day Health Care Committee, as designated by Section 1572 of the Health and Safety Code as it is proposed to be amended by Senate Bill No. 1337 of the 1983–84 Regular Legislative Session, which is hereby renamed the Long-Term Care Committee, within the Division of Long-Term Care, shall be responsible for the reviewing of new programs under the jurisdiction of the department.

The committee shall assist the director in the development of procedures and guidelines for new contracts or grants, as well as review and make recommendations on applicants. The committee shall take into consideration the desirability of coordinating and utilizing existing resources, avoidance of duplication of services and inefficient operations, and locational preferences with respect to

accessability and availability to the economically disadvantaged older person. An expert in Alzheimer's disease, or a disease of a related disorder, and a representative from the State Department of Developmental Services shall be added to the committee.

SEC. 4. Chapter 4.7 (commencing with Section 9390) is added to Division 8.5 of the Welfare and Institutions Code, to read:

CHAPTER 4.7. INSTITUTIONALIZATION PREVENTION SERVICES

9390. It is the intent of the Legislature to ensure that frail elderly and functionally impaired adults receive needed services which will enable them to remain in their own homes whenever possible. In order to achieve this goal, the department shall, commencing with the 1984–85 fiscal year, award contracts based upon proposals submitted by nonprofit organizations or governmental entities. The contracts shall be for the purpose of providing the following services to functionally impaired adults and the frail elderly to enable them to remain in their own homes. These organizations or entities shall have demonstrated programmatic and administrative experience in providing long-term care services in all of the following areas:

(a) Comprehensive and timely information, when necessary, to persons and their families about the availability of community resources to assist functionally impaired adults and the frail elderly to maintain the maximum independence permitted by their functional ability.

(b) One-time only assistance in securing community services when deemed necessary or desirable in order to assure timely receipt of the needed services to help maintain maximum independence of a frail older person or functionally impaired adult.

(c) Short-term specialized assistance including counseling and the arrangement of an action plan when there is a temporary probable threat to the functionally impaired adult's or frail elderly person's ability to remain in the most independent living arrangement permitted by his or her functional ability.

(d) Continuing assistance, including case management to older persons and functionally impaired adults who cannot manage their own affairs, but who are not disabled to the extent of needing skilled nursing facility or intermediate care facility placement, in order to help prevent or delay placement in those institutions. For purposes of this provision, "case management" means all of the following:

(1) Client assessment in conjunction with the development of a service plan with the participant and other appropriate persons to provide for needs identified by the assessment.

(2) Authorization and arrangement for the purchase of services, or referral to volunteer, informal, or third-party payer services with followup.

(3) Service and participant monitoring to determine that services are obtained which are appropriate to need, adequate to meet the need for acceptable quality, and provided in a timely manner.

(4) Followup with clients, including periodic contact and initiation of an interim assessment, if deemed necessary prior to scheduled reassessment.

Organizations or entities eligible for contract awards to provide for the above-listed services must demonstrate that they have an advisory group which includes representatives of older and functionally impaired groups served.

These organizations or entities shall have proven experience in community long-term care services and be able to demonstrate the ability to increase their service capability to provide their services to and to relate to adults of all ages.

Grantees who already provide direct services and apply to carry out the proposed services shall assure the separateness of the programs and demonstrate protective measures to avoid conflict of interest in care planning processes.

(e) For persons eligible under the home and community-based waiver under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.) obtained pursuant to Section 2176 of the Omnibus Reconciliation Act of 1981, as described in Chapter 5 (commencing with Section 9400) who are disabled to the extent of needing skilled nursing facility or intermediate care facility placement, services shall be provided by the Multipurpose Senior Services Program, pursuant to Chapter 5 (commencing with Section 9400). During the 1984–85 fiscal year, in accordance with the 1984–85 Budget Act, existing Multipurpose Senior Services Program sites may be increased in size and up to 10 additional sites may be established.

(f) Assistance to older persons entering or returning home from skilled nursing facilities and intermediate care facilities, who need help to make the transition and who reside in a Multipurpose Senior Services Program service area shall be provided by the Multipurpose Senior Services Program as described in subdivision (c).

9390.1. As used in this chapter:

(a) "Department" means the Department of Aging.

(b) "Director" means the Director of the Department of Aging.

(c) "Long-Term Care" means a coordinated continuum of preventive, diagnostic, therapeutic, rehabilitative, supportive, and maintenance services that address the health, social, and personal needs of individuals who have restricted self-care capabilities. Services shall be designed to recognize the positive capabilities of the individual and maximize the potential for the optimum level of physical, social, and psychological independence in the least restrictive environment, and emphasis shall be placed on seeking alternative services other than institutionalization. Services may be provided by formal or informal support systems and may be continuous or intermittent.

(d) "Community Based Resources" include, but are not limited to, information and referral services, nutrition programs, home delivered meals, housing assistance, home modifications, special transportation services, senior companion programs, respite care,

adult day health care, multipurpose senior services programs, in-home supportive services, special circumstances, inpatient and outpatient medical rehabilitation programs, home health and independent living training programs, ombudsman services, case management services, and hospice services.

(e) "Preadmission Screening" means personal assessment of an applicant for placement in a skilled or intermediate care facility, prior to admission, to determine the individual's ability to remain in the community with the support of community-based services.

9390.2. Contractors shall maximize to the fullest extent possible the use of existing services resources before using program funds to purchase services for clients. Funds for the purchase of services shall be allocated by the department among the contractors based upon a capitated rate which shall be established and monitored by the department. Failure by a contractor to perform within the capitated rate levels without prior approval shall be a basis for termination of the contract by the department. Any benefits received as a result of these purchases either shall not be considered income for purposes of programs provided for under Division 9 (commencing with Section 10000) or shall not be considered an alternative resource pursuant to Section 12301.

9390.3. To the extent permissible under federal law, the department shall test models of case management services that differ from those currently available under the home and community-based waiver under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.).

Alternative case-management models that may be tested include, but are not limited to, prepaid risk-based capitation funding models.

9390.4. To insure coordination between the level of service established by subdivisions (a) through (f) of Section 9390, the administration of the Multipurpose Senior Services Program (MSSP) shall be transferred from the Health and Welfare Agency to the department on or before January 1, 1985. The department is charged with preparing an implementation plan for the transfer to be coordinated and compatible with the timing for the transfer of the Office of Long-Term Care and Aging as provided in Senate Bill 1337 of the 1983–84 Regular Legislative Session.

9390.5. (a) The State Department of Health Services shall conduct preadmission screening of persons residing in the community who apply for admission to, or are referred to, long-term health care facilities by a community care facility. Prescreening shall be performed in five Medi-Cal field offices, at least one of which shall be in northern California and one of which shall be in southern California, with voluntary participation of long-term health care facilities. The State Department of Health Services shall submit a report to the Legislature no later than March 1, 1985, on the implementation of this section. On July 1, 1985, the State Director of Health Services shall expand prescreening activities statewide, if possible. If a determination is made by the State Director of Health

Services that expansion is not possible, the State Department of Health Services shall include in the March report to the Legislature alternative options for expanding preadmission screening to other offices statewide, including the option of subcontracting with community-based, nonprofit agencies and the resources necessary to do so. By July 1, 1986, there shall be mandatory prescreening of all patients eligible for Medi-Cal who may be admitted to a long-term care facility.

(b) The State Department of Health Services shall conduct preadmission screening of persons who are patients of general acute care hospitals, who are referred to long-term health care facilities by hospital discharge planners, the Medi-Cal review team, or who are identified by Medi-Cal field office reviews of hospital patient caseloads. Prescreening of general acute care hospital patients referred to long-term health care facilities shall be performed in two Medi-Cal field offices, one of which shall be in northern California and one of which shall be in southern California, with voluntary participation of general acute care hospitals. The State Director of Health Services shall expand prescreening activities statewide, if possible. If a determination is made by the State Director of Health Services that statewide expansion is not possible, the State Department of Health Services shall report to the Legislature no later than March 1, 1985, on the problems encountered by preadmission screening of acute care hospitals and propose alternative solutions to expand mandatory prescreening activity statewide from all acute care and long-term facilities. Preadmission screening activities carried out in this section shall continue in the five Medi-Cal offices selected until July 1, 1986, when mandatory prescreening is instituted statewide.

9391. The intent of this section is to ensure that no one shall be institutionalized without being given the option of a viable alternative when one exists. Preadmission screening of Medi-Cal eligibles applying for SNF/ICF placement, conducted under the auspices of the State Department of Health Services must consider community-based resources.

9391.1. The State Department of Health Services shall reimburse for administrative days when discharge is delayed due to the preadmission process.

9391.2. The State Department of Health Services shall mandate maximum days allowable for completion of preadmission screening.

9391.3. The State Department of Health Services shall mandate a memorandum of agreement between participating State Department of Health Services Medi-Cal field offices and contractors funded under this chapter.

9391.4. All Medi-Cal field offices shall have a list of alternative services in their areas. The field offices shall provide this information to health providers in their areas.

9392. In order to select the contractors pursuant to Section 9390, the department shall seek proposals through the development of a

request for proposal. During the 1984–85 fiscal year, the department shall contract with no more than 10 nonprofit organizations or governmental entities. Expansion beyond the 1984–85 fiscal year limits shall be subject to subsequent administrative action and budget appropriations. The department shall contract with nonprofit organizations or governmental entities to arrange for the provision of services under subdivisions (a) to (d), inclusive, of Section 9390, only until June 30, 1988.

A copy of each completed request for a proposal shall be filed by the applicant with either the applicant's local adult day health care planning council or a specified local long-term care planning council, for review and comment. Each local area agency on aging shall receive timely notice of all grants awarded pursuant to this chapter.

9393. Each contractor shall coordinate and maximize the use of existing resources available in the community, including, but not limited to, the Multipurpose Senior Services Program, as defined in Chapter 5 (commencing with Section 9400), and funds provided for pursuant to Title XX of the federal Social Security Act (42 U.S.C. Sec. 1397 et seq.), and Title III of the federal Older Americans Act (42 U.S.C. Sec. 3021 et seq.).

9394. In order to ensure that the contractors are able to arrange for the provision of the highest quality services, the Health and Welfare Agency shall mandate the establishment of interagency agreements between the Department of Aging and the State Department of Health Services and the State Department of Social Services which shall ensure state level commitment and cooperation between state departments, and which shall facilitate administrative and program effectiveness.

9395. Commencing on March 1, 1986, and on each March 1, thereafter, the department, in conjunction with the State Department of Health Services, shall submit to the Legislature a report on the implementation of this chapter. The report shall include, but not be limited to, all of the following:

(a) (1) Number of clients served.

(2) Description of clients and how clients are selected.

(3) Description and quantity of services provided.

(4) Cost per client and cost per service.

(5) Cost comparison of acute care, skilled nursing, and intermediate care services, and services provided for under this chapter.

(6) A description of services needed to fulfill the intent of this chapter, but which are not available.

(7) Recommendations for changes in the delivery system to increase its effectiveness.

(b) (1) The number of clients screened pursuant to Section 9390.5.

(2) The living situation of clients at the time of screening.

(3) The number of clients diverted from long-term health care facilities to available community services.

(4) A comparison of the costs incurred and savings realized in utilizing community services alternatives.

SEC. 5. The sum of three million five hundred forty-one thousand dollars ($3,541,000) is hereby appropriated from the General Fund in accordance with the following schedule, for expenditure during the 1984–85 fiscal year as follows:

(a) To the Department of Aging, the sum of three hundred thousand dollars ($300,000) may be allocated to the contractors as specified in subdivisions (a) and (b) of Section 9390 of the Welfare and Institutions Code for the sole purpose of carrying out Chapter 4.7 (commencing with Section 9390) of Division 8.5 of the Welfare and Institutions Code.

(b) To the Department of Aging, the sum of two million seven hundred thousand dollars ($2,700,000) may be expended by the department for the sole purpose of implementing subdivisions (c) and (d) of Section 9390.

(c) Contracts may be renewable annually based upon adequate performance and subject to rebidding every three years.

(d) To the Department of Aging, the sum of four hundred seventy-five thousand dollars ($475,000) may be expended by the department for the sole purpose of covering state administrative costs of implementing Chapter 4.7 (commencing with Section 9390) of Division 8.5 of the Welfare and Institutions Code.

(e) To the State Department of Health Services, the sum of sixty-six thousand dollars ($66,000) for the sole purpose of implementing or testing the feasibility of establishing preadmission screening activities as described in, but not limited to, Section 9390.5.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that essential services are provided to functionally impaired adults and the frail elderly as soon as possible, it is necessary that this act go into immediate effect.

CHAPTER 1638

An act to add Sections 18953.5 and 18953.7 to, and to add Chapter 12 (commencing with Section 18975) to Part 6 of Division 9 of, the Welfare and Institutions Code, relating to child abuse, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 18953.5 is added to the Welfare and Institutions Code, to read:

18953.5. The Office of Child Abuse Prevention may fund the various programs and centers established pursuant to this chapter and Chapter 12 (commencing with Section 18975) by means of grants rather than contracts. The grants shall not be subject to the review specified in Section 10295 of the Public Contract Code.

SEC. 2. Section 18953.7 is added to the Welfare and Institutions Code, to read:

18953.7. The Office of Child Abuse Prevention may renew grants not to exceed three years in duration on condition that the grant is reviewed annually and the grantee is found to be satisfactorily meeting the grant objectives.

SEC. 3. Chapter 12 (commencing with Section 18975) is added to Part 6 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 12. THE MAXINE WATERS CHILD ABUSE PREVENTION TRAINING ACT OF 1984

Article 1. *General Provisions and Definitions*

18975. This chapter is known and may be cited as the Maxine Waters Child Abuse Prevention Training Act of 1984.

18975.1. The Legislature finds and declares all of the following:

(a) Child abuse and neglect is a severe and increasing problem in California.

(b) School districts and preschools are able to provide an environment for training of children, parents, and all school district staff.

(c) Primary prevention programs in the school districts are an effective and cost-efficient method of reducing the incidence of child abuse and neglect and for promoting healthy family environments.

(d) To ensure comprehensive and effective primary prevention education to all of California's public school children, it is the intent of the Legislature to provide adequate funding for training for each child four times in their school career, including once in preschool, elementary school, junior high school, and senior high school.

18975.2. It is the intention of the Legislature that primary prevention training for all children in publicly funded preschool through 12th grades, be encouraged in the school district system and preschools by the funding of appropriate agencies to provide the training.

18975.3. Unless the context otherwise requires, the definitions contained in this article govern the construction of this chapter.

18975.4. "Department" means the State Department of Social Services.

18975.5. "Office" means the Office of Child Abuse Prevention in

the State Department of Social Services.

18975.6. "Child abuse" means those acts defined in Section 11165 of the Penal Code.

18975.7. A "primary prevention program" means a training and educational program for children, which is directed toward all of the following:

(a) Preventing the occurrence of child abuse, including physical abuse, sexual assault, and child neglect.

(b) Reducing the general vulnerability of children, including coordination with and training for parents and school staff.

18975.8. "Startup costs" for a primary prevention program means staff development, arranging with training centers for training, program planning, materials preparation, coordination with school districts, coordination with other relevant agencies and community organizations, securing office space, basic office supplies, and other reasonable costs associated with implementing the program.

18975.9. "Prevention training center" means a center defined in Article 3 (commencing with Section 19877).

18975.10. "Preschool" means state and federally subsidized preschool and child care development programs as defined in subdivisions (h) and (dd) of Section 8208 of the Education Code.

Article 2. Primary Prevention Programs

18976. A primary prevention program shall include all of the following:

(a) Parent, teacher, and children's workshops which provide all of the following:

(1) Information, provided in a clear, age-appropriate, nonthreatening manner, delineating the problem and the range of possible solutions.

(2) Workshops which are culturally and linguistically appropriate to the population served and which are staffed by people with cultural and linguistic backgrounds representing the diversity of the population in the service area.

(3) Workshops which are appropriate to the geographic area served.

(4) Workshops which are designed to help counteract common stereotypes about victims and offenders.

(b) Parent and school staff workshops presented prior to the presentation of children's workshops, which include information and training concerning all of the following:

(1) Physical and behavioral indicators of abuse.

(2) Crisis counseling techniques.

(3) Community resources.

(4) Rights and responsibilities regarding reporting.

(5) School district procedures to facilitate reporting and apprise supervisors and administrators of reports.

(6) Caring for a child's needs after a report is made.

(c) Children's workshops shall contain information and training concerning all of the following:

(1) The right of every child to live free of abuse.

(2) How to disclose incidents of abuse.

(3) The availability of support resources and how to obtain help.

(4) Child safety training and age-appropriate self-defense techniques.

(5) A period for crisis counseling and reporting immediately following the completion of each children's workshop in a school setting which maximizes the child's privacy and sense of safety.

18976.5. Parents shall be given notice of, and may refuse to have their children participate in, a primary prevention training program.

Article 3. Prevention Training Centers

18977. A prevention training center shall provide information and services to primary prevention programs, the office, and interested applicants for grants, as follows:

(a) Act as a clearinghouse to provide information on state-of-the-art prevention curricula which meet the requirements of this chapter.

(b) Assist in selecting a prevention program model, or a combination of program models, which will meet the needs of their communities.

(c) Design and administer training sessions to develop or expand local primary prevention programs.

(d) Provide technical assistance to local programs, including, but not limited to, all of the following: administration, management, evaluation, program development, development of multicultural staffing, and community education.

(e) Provide ongoing program development and in-service training to meet all of the following:

(1) The special needs of children, including, but not limited to, the needs of disabled and high-risk children.

(2) The geographic, cultural, and linguistic needs of the diverse communities of the state.

(f) Conduct an outreach program to inform communities of the existence of funds to conduct primary prevention programs.

(g) To act in an advisory capacity to the office to provide information for all of the following:

(1) The development of a standard request for proposal as described in Section 18978.2.

(2) Suggestions of appropriate agencies to receive the request for proposal.

(3) The determination of, if requested, a current needs assessment for the number of projects needed to serve a county.

Article 4. The Office of Child Abuse Prevention

18978. The office shall select and award grants by January 1, 1985, to two private, nonprofit prevention training centers, one located in, and serving northern California, and one located in, and serving southern California. The dividing line for the purposes of this act shall be the county boundary lines between Monterey, Kings, Tulare, and Inyo Counties to the north, and San Luis Obispo, Kern, and San Bernardino Counties to the south.

18978.1. The office shall select the two training centers which can fulfill the requirement of Section 18977, and which meets the following requirements:

(a) For the northern California training center, the grant shall be awarded to the applicant which has demonstrated experience and expertise in administering a prevention training center and which has demonstrated the following:

(1) Provided training and ongoing technical assistance for the greatest number of primary prevention programs as defined in Section 18975.5 in school districts and preschool.

(2) Trained and employed the greatest number of trainers with experience in providing primary prevention programs.

(3) Employed trainers representing the cultural and geographical diversity of the service area.

(b) For the southern California training center the grant shall be awarded to the applicant which demonstrates the following:

(1) Experience in child abuse prevention training.

(2) Capacity for training of primary child abuse prevention training programs as defined in Section 18976.

(3) Broad community support.

(4) Capability for developing staffing which represents the cultural diversity of their service area and a plan for developing this staff.

18978.2. The office shall distribute a standard request for proposal and shall select the primary prevention programs for each county through a competitive bidding process. Grants for programs in each county shall be determined on a proportional basis according to the number of children in the schools, kindergarten through 12th grade, and in state-funded child development programs, except that allocations for primary prevention programs in any one county shall not be less than ten thousand dollars ($10,000) or any amount necessary to fund a primary prevention program, whichever is less.

The request for proposals shall include a plan by the applicant as to how its program will serve each child in the service area, including all of the following information:

(a) How many children will be served each year.

(b) How each school in the service area is to be served so that each child receives age-appropriate training once during preschool, and at least three times during a child's school career in grades kindergarten through 12.

(c) How multicultural staffing will be developed, including plans for the hiring and training of staff.

18978.3. In awarding grants for primary prevention programs, the office:

(a) May, in order to achieve economies of scale, designate service areas for grants that include more than one county provided, that an acceptable application is not submitted from a private nonprofit community organization that is located in the county to be served. The office may also designate more than one service area in large counties and counties with large school-age populations.

(b) Shall award grants only to those qualified applicants set forth below and in the following order of priority:

(1) Private, nonprofit, and public primary prevention programs with experience that meet the requirements of this chapter.

(2) Private, nonprofit, community organizations based in the county to be served.

(3) Public institutions based in counties which do not have qualified organizations as defined in paragraphs (1) and (2).

(4) Private, nonprofit community organizations in adjacent counties.

(5) Public institutions based in adjacent counties.

18978.4. (a) Requests for proposals shall be sent out by March 1, 1985, and at least 45-calendar days shall be allowed for the submission of proposals for the competitive bidding.

(b) Requests for proposals thereafter shall be sent out in time for the office to develop by October 1 of each year a proposed funding level for the purposes of this chapter.

18978.5. The office shall do all of the following:

(a) Prepare and execute grants with the successful applicants for the prevention training centers and primary prevention programs.

(b) Monitor and evaluate primary prevention programs and prevention training centers.

(c) Notify any local child abuse prevention council when a primary prevention program grant award has been made in its service area.

18978.6. The office shall administer this chapter.

18978.7. The director shall be authorized to the extent necessary to adopt regulations, orders, or standards of general application to implement, interpret, or make specific the provisions of this chapter.

18978.8. The director shall, within 60 days of the operative date of this chapter, adopt regulations implementing the provisions of this chapter as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

Article 5. Fiscal Provisions

18979. Notwithstanding Section 13340 of the Government Code, eleven million two hundred fifty thousand dollars ($11,250,000) is hereby appropriated from the General Fund to the office for the purposes of this chapter, to be allocated as follows:

(a) Eight hundred fifty thousand dollars ($850,000) for the establishment of prevention training centers and for administrative costs of the department, to be allocated for the period commencing January 1, 1985, and ending June 30, 1985, as follows:

(1) Four hundred eighty-seven thousand five hundred dollars ($487,500) for startup and operating of the prevention training centers, to be allocated as follows:

(A) Two hundred eighteen thousand seven hundred fifty dollars ($218,750) for the northern California prevention training center.

(B) Two hundred sixty-eight thousand seven hundred fifty dollars ($268,750) for the southern California prevention training center.

(2) Three hundred sixty-two thousand five hundred dollars ($362,500) for administrative costs of the department.

(3) Any unexpended allocations pursuant to this subdivision for the 1984–85 fiscal year shall be carried forward for the 1985–86 fiscal year.

(b) Ten million four hundred thousand dollars ($10,400,000) for the continuation of the prevention training centers, primary prevention programs, and administrative costs to be allocated for the 1985–86 fiscal year, as follows:

(1) Nine million five hundred thousand dollars ($9,500,000) for the operating costs of primary prevention programs.

(2) Seven hundred thousand dollars ($700,000) for the operating costs of the prevention training centers, to be allocated as follows:

(A) Three hundred thousand dollars ($300,000) for the northern California prevention training center.

(B) Four hundred thousand dollars ($400,000) for the southern California prevention training center.

(3) Two hundred thousand dollars ($200,000) for administrative costs of the department.

SEC. 4. (a) In order to develop a uniform and coordinated service delivery system and to insure that services are not duplicated, it is the intent of the Legislature that existing programs, as defined in Section 18975.7 of the Welfare and Institutions Code, be incorporated into, and receive continuation funding through, the provisions of this act. Commencing on July 1, 1985, any program operating on the effective date of this act which is otherwise eligible for funding for its activity shall receive subsequent appropriations through this act. These programs include, but are not limited to, programs funded pursuant to Sections 18962, 18963, and 18966 to 18971, inclusive, of the Welfare and Institutions Code.

(b) By October 1, 1984, the Office of Child Abuse Prevention shall develop a plan which includes each of the following: (1) identifies on

a county-by-county basis existing programs as defined in Section 18975.7 of the Welfare and Institutions Code, their funding amounts, service areas and level of compliance with Section 18976 of the Welfare and Institutions Code; (2) compares current funding with amounts allocated through this act for each county and specifies a process by which each existing program is to be modified to conform to the programmatic and fiscal provisions of this act; (3) recommends necessary modifications for transitioning these programs into programs funded by this act which shall not result in disruption of the delivery of primary prevention training programs. Whenever possible, this transition will be done through the contract amendment process.

SEC. 5. Any funds that remain unallocated as a result of this transitioning of programs shall be rebid for other services and shall comply with all statutory provisions which govern their expenditure.

SEC. 6. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide timely training to California's children to protect them from the increasing problem of child abuse and neglect, it is necessary that this act go into immediate effect.

CHAPTER 1639

An act to add Chapter 1 (commencing with Section 14998) to Part 5.7 of Division 3 of Title 2 of, to add Sections 15335 and 15335.5 to, to add and repeal Sections 14998.15 and 14998.17 of, and to repeal Chapter 1 (commencing with Section 14998.1) of Part 5.7 of Division 3 of Title 2 of, the Government Code, relating to motion pictures, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Chapter 1 (commencing with Section 14998.1) of Part 5.7 of Division 3 of Title 2 of the Government Code is repealed.

SEC. 2. Chapter 1 (commencing with Section 14998) is added to Part 5.7 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 1. MOTION PICTURE COUNCIL

14998. This chapter shall be known, and may be cited as, the Motion Picture, Television, and Commercial Industries Act of 1984.

14998.1. The Legislature finds that motion picture production in California provides unique and significant contributions to the economy of California and to the cultural enrichment of its citizens, as well as providing a unique form of entertainment for the state, country and the world at large. The Legislature finds that expenditures for hotels, catered food, leases of equipment and property, transportation, and wages and salaries paid to individuals in California as a result of motion picture production benefit the California economy directly and indirectly.

However, the Legislature finds that the signficant benefits provided to California by motion picture production are in jeopardy as a result of the concerted efforts of other states and countries to lure this production away from California.

Therefore, the Legislature finds a need for concerted efforts by California state and local governments to provide an environment supportive of, and conducive to, the undertakings of the motion picture industry in this state.

14998.3. (a) The Motion Picture Council shall have an executive director, exempt from civil service, who shall be nominated by the council and appointed by the Governor. The salary of the executive director shall be established by the council with the approval of the Department of Personnel Administration.

(b) The council shall work to encourage motion picture and television filming in California and shall exercise the powers provided in this article. In addition, the council shall make recommendations to the Legislature, the Governor, the California Film Office, and state agencies on legislative or administrative actions which may be necessary or helpful to maintain and improve the position of the state's motion picture industry in the national and world market.

(c) The council shall meet at least quarterly and shall select a chairperson and a vice chairperson from among its members. The vice chairperson shall act as chairperson in the chairperson's absence. Each council member shall serve without compensation but shall be reimbursed for traveling outside the county in which he or she resides to attend meetings.

14998.4. The council shall do all of the following:

(a) Adopt guidelines for a standardized permit procedure to be used by state agencies and the California Film Office.

(b) Approve or modify the marketing and promotion plan developed by the California Film Office pursuant to subdivision (b) of Section 15335 to promote filmmaking in the state.

(c) Conduct workshops and trade shows.

(d) Provide expertise in promotional activities.

(e) Hold hearings.

(f) Adopt its own rules and procedures.

(g) Counsel the Legislature and the Governor on issues relating

to the motion picture industry.

(h) Submit a report to the Legislature, by December 31, 1985, on the effectiveness of tax incentives as a means of encouraging location shooting in California. The report shall assess other states' tax policies regarding the motion picture industry and shall assess the benefits and costs that would accrue to the state from one or more changes in state taxation laws to encourage motion picture production in California.

14998.5. The council is authorized to appoint production consultants and an advisory commission, provided, however, that no member of the advisory commission shall receive any compensation. No advisory person appointed may use the name of the council on any letterhead, business card, or identification badge except to the extent that the person is authorized to do so by the council.

14998.6. (a) The California Film Office shall be the permitting authority for the use of state-owned property and state employee services for the purpose of making commercial motion pictures. The office may establish fees not to exceed the actual cost of the affected state agency for this purpose. All fees collected pursuant to this section shall be deposited in the Film Transfer Account, which is hereby created in the Special Deposit Fund, for disbursement by the office to reimburse the operating departments for their actual costs.

(b) The office shall assure a "one-stop" permit process for applications for permission to use state-owned property for motion pictures. In so doing, applications for permission to use state property for making motion pictures shall be made to the film office which, promptly upon receipt of such an application, shall contact the state agency having jurisdiction over the property specified in the application for the concurrence of the agency in the use of property. The denial of an application may be made on the basis of any of the following:

(1) The use would unduly interfere with the conduct of state business.

(2) Failure of the permittee to provide full insurance or bond coverage, if required by the Department of General Services, or the affected agency, sufficient to reimburse the state for any user-caused damage to the property and to provide adequate personal liability insurance coverage.

(3) The use of state property shall be denied, if it is determined that such use would violate or be in conflict with existing provisions of statute or regulation by the director of the department, agency, or commission responding to a permit request.

(c) Any state agency having management and control over state property, the use of which is sought by an application, shall permit the property to be used, unless otherwise denied by the provisions of this section.

(d) Nothing in this section shall be construed to require a state agency to take any action not authorized by law, or to make, or to require the state agency to make, a decision in a manner or by a

method not authorized by law or prohibited by law.

(e) If in connection with the use of roads, highways, and freeways, the assistance, control, or protection by California Highway Patrol officers is desired, applications to the California Film Office to utilize services of California Highway Patrol officers in the production of motion pictures shall be made directly to the Commissioner of the California Highway Patrol. The commissioner may approve the application, provided that employees are available and the department is fully reimbursed for additional costs incurred. Applications to utilize California Highway Patrol employee services shall be approved or disapproved by the commissioner.

(f) The California Film Office, whenever feasible, shall approve or deny any application within 24 hours. In the event that the director of the department or agency having jurisdiction over the property specified in the application permit takes no action to disapprove the application within five working days, the application shall be deemed approved by the Director of the California Film Office. If the director of the department or agency determines that he or she is unable to concur or deny an application within five working days and so notifies the California Film Office within five working days of the application, the director shall then have a total of 10 days from receipt of the application to deny the application. In the event no action is taken by the director within the 10-day period, the application shall be deemed approved by the Director of the California Film Office.

14998.7. It is the intent of the Legislature to encourage local governments to develop uniform procedures for issuing permits and to charge fees for the use of agency property or employee services, which do not exceed the estimated reasonable costs of providing the property or services for which the fees are charged.

It is also the intent of the Legislature to encourage local governments to establish departments which would allow motion picture productions to obtain all the locally required permits at one location.

14998.8. (a) The Motion Picture Council shall be an independent unit of state government, but, for the purposes of administrative support and budgetary submittal, shall be within the Department of Commerce.

SEC. 2. Section 14998.15 is added to the Government Code, to read:

14998.15. (a) In keeping with the intent of Section 14998.7, there is hereby established the Southern California Public-Private Film Commission whose purposes shall be to create a regional permit pilot project and to act as a liaison between the motion picture industry and local government. As used in this section, motion picture industry shall include television and commercials.

(b) The Southern California Public-Private Film Commission shall be a joint powers agency, pursuant to the provisions of Chapter 5 (commencing with Section 6500) of Division 7 of Title 1, and may

represent the six-county region covered by the Southern California Association of Governments.

(c) The membership and staffing of the Southern California Public-Private Film commission shall be determined by the entities participating in the joint powers agreement.

(d) this section shall remain in effect only until January 1, 1991, and as of that date is repealed.

SEC. 3. Section 14998.17 is added to the Government Code, to read:

14998.17. The Southern California Public-Private Film Commission may do all of the following:

(a) Operate as a "one-stop" permit office coordinating movie industry permit requests for local government entities within the six-county region covered by the Southern California Association of Governments.

(b) Expedite the permit process by communicating movie industry needs and concerns to the affected jurisdiction and coordinating all arrangements.

(c) Establish location filming guidelines to ensure that productions are carried out with minimal disruption to residents and businesses.

(d) Monitor compliance with guidelines and handle and investigate complaints from the public.

(e) Catalogue various filming locations within the region and assist the industry in finding locations.

(f) This section shall remain in effect only until January 1, 1991, and as of that date is repealed.

SEC. 4. Section 15335 is added to the Government Code, to read:

15335. There is within the Department of Commerce a California Film Office. The office shall prepare and implement a program to promote the production of motion pictures and still photography for the benefit of the state's economy.

The program shall do, but shall not be limited to doing, all of the following:

(a) Administer a one-stop permit office, pursuant to subdivision (c) of Section 14998.6, which shall issue permits for the use of state property for filmmaking.

(b) Implement the guidelines or regulations for a standardized permit procedure for all state agencies pursuant to guidelines adopted by the Motion Picture Council under Section 14998.4.

(c) Update and expand the location resource library.

(d) Produce and implement a marketing and promotion plan for filmmaking in California which shall be subject to the approval of the Motion Picture Council. The purpose of the plan shall be to design a program for all of the following:

The preparation and distribution of appropriate promotional and informational materials pointing out desirable locations within the state for the production of motion pictures, explaining the benefits and advantages of producing motion pictures within the state

government, as well as those services available at the local level and within the industry.

(e) Conduct workshops to assist local governments to adopt uniform permit procedures and to establish film development offices.

(f) Request and obtain any information from state entities necessary to carry out the purposes of this section.

(g) Accept grant moneys for the purpose of implementing this section.

(h) Accept gifts and donations for the purpose of implementing this section.

SEC. 5. Section 15335.5 is added to the Government Code, to read:

15335.5. The California Film Office shall have a director who shall be under the direction of the Director of Commerce and who shali also be an Assistant Director of the Department of Commerce. The director shall be appointed, upon recommendation by the Director of Commerce, by the Governor. The director shall serve at the pleasure of the Director of Commerce and shall receive a salary to be determined by the Director of Commerce with the approval of the Department of Personnel Administration.

SEC. 6. There is hereby appropriated one hundred fifty-four thousand eight hundred dollars ($154,800) from the General Fund to the California Film Office for the purposes of this act from January 1, 1985, to June 30, 1985. Of this amount, forty thousand dollars ($40,000) shall be used for the development of promotional materials and the development and implementation of the marketing and promotion plan as provided in subdivision (d) of Section 15335 of the Government Code.

SEC. 15. (a) There is hereby appropriated one hundred thousand dollars ($100,000) from the General Fund to the Department of Commerce, to be disbursed by the Director of Commerce for the purpose of the regional permit pilot project office, pursuant to Section 14998.17.

(b) The department shall, by March 31, 1985, develop guidelines for the disbursement of funds pursuant to this section.

(c) It is the intent of the Legislature that any funds appropriated pursuant to this section which are not encumbered by June 30, 1985, shall revert to the General Fund.

SEC. 16. There is hereby appropriated thirty-nine thousand two hundred dollars ($39,200) from the General Fund to the Motion Picture Council for the purposes of this act from January 1, 1985, to June 30, 1985.

CHAPTER 1640

An act to amend Section 196 of the Code of Civil Procedure, and to amend Section 1143 of the Penal Code, relating to jurors, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 196 of the Code of Civil Procedure is amended to read:

196. Unless a different fee of not less than ten dollars ($10) for each day's attendance is provided by county or city and county ordinance, the fee for trial jurors in the superior, municipal, and justice courts, in civil cases, is twenty-five dollars ($25) a day for each day's attendance as a juror. Unless a higher rate of mileage is otherwise provided by statute or by county or city and county ordinance, trial jurors in the superior, municipal, and justice courts shall be reimbursed for mileage at the rate of fifteen cents ($0.15) per mile for each mile actually traveled in attending court as a juror, in going only.

SEC. 2. Section 1143 of the Penal Code is amended to read:

1143. Unless a different fee of not less than ten dollars ($10) for each day's attendance is provided by county or city and county ordinance, the fee for trial jurors in the superior, municipal, and justice courts of the state, in criminal cases, is twenty-five dollars ($25), in lawful money of the United States, for each day's attendance. Unless a higher rate of mileage is otherwise provided by statute or by county or city and county ordinance, trial jurors in the superior, municipal, and justice courts shall be reimbursed for mileage at the rate of fifteen cents ($0.15) per mile for each mile necessarily traveled in attending court, in going only. Such fees and mileage shall be paid by the treasurer of the county, or city and county, in which the juror's services were rendered, out of the general fund of said county, or city and county, upon warrants drawn by the county auditor upon the written order of the judge of the court in which said juror was in attendance, and the treasurer of said county, or city and county, shall pay said warrants. The board of supervisors of each county, or city and county, is hereby directed to make suitable appropriations for the payment of the fees herein provided for.

SEC. 3. It is the intent of the Legislature to reimburse local agencies only for the increase in minimum compensation for jurors from five dollars ($5) per day to ten dollars ($10) per day.

SEC. 4. The sum of four million seven hundred fifty thousand dollars ($4,750,000) is hereby appropriated from the General Fund to the Controller for allocation and disbursement in accordance with

Section 2231 of the Revenue and Taxation Code to local agencies and school districts to reimburse them for costs mandated by the state and incurred by them pursuant to this act.

CHAPTER 1641

An act to amend Section 408 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 408 of the Revenue and Taxation Code is amended to read:

408. (a) Except as otherwise provided in subdivisions (b) and (c) any information and records in the assessor's office which are not required by law to be kept or prepared by the assessor, and homeowners' exemption claims, are not public documents and shall not be open to public inspection. Property receiving the homeowners' exemption shall be clearly identified on the assessment roll. The assessor shall maintain records which shall be open to public inspection to identify those claimants who have been granted the homeowners' exemption.

(b) The assessor may provide any appraisal data in his or her possession to the assessor of any county and shall provide any market data in his or her possession to an assessee of property or his or her designated representative upon request. The assessor shall permit an assessee of property or his or her designated representative to inspect at the assessor's office any information and records, whether or not required to be kept or prepared by the assessor, relating to the appraisal and the assessment of his or her property. Except as provided in Section 408.1, an assessee or his or her designated representative, however, shall not be provided or permitted to inspect information and records, other than market data, which also relate to the property or business affairs of another person, unless that disclosure is ordered by a competent court in a proceeding initiated by a taxpayer seeking to challenge the legality of his or her assessment.

(c) The assessor shall disclose information, furnish abstracts, or permit access to all records in his or her office to law enforcement agencies, the county grand jury, the board of supervisors or their duly authorized agents, employees or representatives when conducting an investigation of the assessor's office pursuant to Section 25303 of the Government Code, the State Controller, inheritance tax referees, staff appraisers of the Department of Transportation, the State Board of Equalization and other duly

authorized legislative or administrative bodies of the state pursuant to their authorization to examine such records. Whenever the assessor discloses information, furnishes abstracts, or permits access to records in his or her office to staff appraisers of the Department of Transportation pursuant to this section, the department shall reimburse the assessor for any costs incurred as a result thereof.

(d) For purposes of this section, "market data" means any information in the assessor's possession, whether or not required to be prepared or kept by him or her, relating to the sale of any property comparable to the property of the assessee, if the assessor bases his or her assessment of the assessee's property, in whole or in part, on that comparable sale or sales. The assessor shall provide the names of the seller and buyer of each property on which the comparison is based, the location of that property, the date of the sale, and the consideration paid for the property, whether paid in money or otherwise, but for purposes of providing market data, the assessor shall not display any document relating to the business affairs or property of another.

SEC. 2. No appropriation is made by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act provides for reimbursement to local agencies for the program or level of service mandated by this act.

CHAPTER 1642

An act to amend Sections 1521 and 3012 of the Unemployment Insurance Code, relating to employment, making an appropriation therefor, to take effect immediately, usual current expenses.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 1521 of the Unemployment Insurance Code is amended to read:

1521. The Unemployment Fund is continued in existence as a special fund, separate and apart from all public money or funds of this state. This fund shall consist of (1) all employer contributions collected under this division; (2) interest earned upon any money in the fund; (3) any property or securities acquired through the use of money belonging to the fund; (4) all earnings of such property or securities; (5) all money credited to this state's account in the Unemployment Trust Fund pursuant to Section 903 of the Social Security Act, as amended; and (6) all other money received for the fund from any other source. All money in the fund shall be mingled and undivided.

Notwithstanding Section 13340 of the Government Code, all money in the Unemployment Fund and in the various accounts of that fund, except any money deposited pursuant to Section 1528.5, is continuously appropriated for the purposes authorized in this article.

SEC. 2. Section 3012 of the Unemployment Insurance Code is amended to read:

3012. (a) Notwithstanding Section 13340 of the Government Code, all money in the Disability Fund is continuously appropriated for the purpose of providing disability benefits pursuant to this part, including the payment of refunds, credits, or judgments, and interest thereon, the payment of disability benefits to all eligible persons not covered exclusively by an approved voluntary plan, and the payment of the expenses of administration of this part and Sections 17061 and 17061.5 of the Revenue and Taxation Code by the department and the Franchise Tax Board. "Eligible persons" as used in this section, means those individuals who are covered by the Disability Fund at the time their period of disability commences, or whose employment has terminated or who are in noncovered employment at the time their period of disability commences, and who are otherwise eligible for benefits under this part.

(b) For the purpose of keeping a record of the payments to and the disbursements from the Disability Fund with respect to the payment of benefits to persons whose employment has terminated or who are in noncovered employment at the time their period of disability commences, the director shall maintain the Unemployed Disabled Account in the Disability Fund. This account shall be credited with 12 percent of the product obtained by multiplying the rate of worker contributions as determined in Section 984, by the amount of the taxable wages paid to employees covered by voluntary plans for disability benefits for each calendar year. This account shall also be credited with an amount equal to 12 percent of the product obtained by multiplying the rate of worker contributions as determined in Section 984, by the amount of the taxable wages paid to employees covered by the Disability Fund for each calendar year. This account shall be charged each calendar year with disbursements from the Disability Fund for the payment of benefits and the additional administrative costs of the payment of benefits to persons whose employment has terminated or who are in noncovered employment at the time their period of disability commences.

SEC. 3. This act makes an appropriation for the usual current expenses of the state within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1643

An act to add Section 1219.5 to the Code of Civil Procedure, relating to contempts.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 1219.5 is added to the Code of Civil Procedure, to read:

1219.5. (a) Except as provided in subdivision (c), in any case in which a contempt consists of the refusal of a minor under the age of 16 years to take the oath or to testify, before imposing any sanction for the contempt, the court shall first refer the matter to the probation officer in charge of matters coming before the juvenile court for a report and recommendation as to the appropriateness of the imposition of a sanction. The probation officer shall prepare and file the report and recommendation within the time directed by the court. In making the report and recommendation, the probation officer shall consider factors such as the maturity of the minor, the reasons for the minor's refusal to take the oath or to testify, the probability that available sanctions will affect the decision of the minor not to take the oath or not to testify, the potential impact on the minor of his or her testimony, the potential impact on the pending litigation of the minor's unavailability as a witness, and the appropriateness of the various available sanctions in the minor's case. The court shall consider the report and recommendation in imposing a sanction in the case.

(b) In any such case in which the court orders the minor to be placed outside of his or her home, the placement shall be in the least restrictive setting available. Except as provided in subdivision (d), the court shall not order the minor to be placed in a secure facility unless other placements have been made and the minor has fled the custody and control of the person under the control of whom he or she has been placed or has persistently refused to obey the reasonable and proper orders or directions of the person under the control of whom he or she has been placed.

(c) The court may impose a sanction for contempt prior to receipt of the report and recommendation required by subdivision (a) if the court enters a finding, supported by specific facts stated on the record, that the minor would be likely to flee if released before the receipt of the report and recommendation.

(d) The court may order the minor placed in a secure facility without first attempting the nonsecure placement required by subdivision (b) if the court enters a finding, supported by specific facts stated on the record, that the minor would be likely to flee if released to nonsecure placement as a prerequisite to secure

confinement.

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

SEC. 3. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1644

An act to amend Sections 128 and 1219 of the Code of Civil Procedure, relating to contempt.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 128 of the Code of Civil Procedure is amended to read:

128. (a) Every court shall have the power to do all of the following:

(1) To preserve and enforce order in its immediate presence.

(2) To enforce order in the proceedings before it, or before a person or persons empowered to conduct a judicial investigation under its authority.

(3) To provide for the orderly conduct of proceedings before it, or its officers.

(4) To compel obedience to its judgments, orders, and process, and to the orders of a judge out of court, in an action or proceeding pending therein.

(5) To control in furtherance of justice, the conduct of its ministerial officers, and of all other persons in any manner connected with a judicial proceeding before it, in every matter pertaining thereto.

(6) To compel the attendance of persons to testify in an action or proceeding pending therein, in the cases and manner provided in this code.

(7) To administer oaths in an action or proceeding pending therein, and in all ther cases where it may be necessary in the exercise of its powers and duties.

(8) To amend and control its process and orders so as to make

them conform to law and justice.

(b) Notwithstanding Section 1211 or any other provision of law, if an order of contempt is made affecting an attorney, his or her agent, investigator, or any person acting under the attorney's direction, in the preparation and conduct of any action or proceeding, the execution of any sentence shall be stayed pending the filing within three judicial days of a petition for extraordinary relief testing the lawfulness of the court's order, the violation of which is the basis of the contempt except for the conduct as may be proscribed by subdivision (b) of Section 6068 of the Business and Professions Code, relating to an attorney's duty to maintain respect due to the courts and judicial officers.

(c) Notwithstanding Section 1211 or any other provision of law, if an order of contempt is made affecting a public safety employee acting within the scope of employment for reason of the employee's failure to comply with a duly issued subpoena or subpoena duces tecum, the execution of any sentence shall be stayed pending the filing within three judicial days of a petition for extraordinary relief testing the lawfulness of the court's order, a violation of which is the basis for the contempt.

As used in this subdivision, "public safety employee" includes any peace officer, firefighter, paramedic, or any other employee of a public law enforcement agency whose duty is either to maintain official records or to analyze or present evidence for investigative or prosecutorial purposes.

(d) Notwithstanding Section 1211 or any other provision of law, if an order of contempt is made affecting the victim of a sexual assault, where the contempt consists of refusing to testify concerning that sexual assault, the execution of any sentence shall be stayed pending the filing within three judicial days of a petition for extraordinary relief testing the lawfulness of the court's order, a violation of which is the basis for the contempt.

As used in this subdivision, "sexual assault" means any act made punishable by Section 261, 262, 264.1, 285, 286, 288, 288a, or 289 of the Penal Code.

SEC. 2. Section 1219 of the Code of Civil Procedure is amended to read:

1219. (a) Except as provided in subdivision (b), when the contempt consists of the omission to perform an act which is yet in the power of the person to perform, he or she may be imprisoned until he or she has performed it, and in that case the act shall be specified in the warrant of commitment.

(b) Notwithstanding any other provision of law, no court may imprison or otherwise confine or place in custody the victim of a sexual assault for contempt when the contempt consists of refusing to testify concerning that sexual assault.

As used in this section, "sexual assault" means any act made punishable by Section 261, 262, 264.1, 285, 286, 288, 288a, or 289 of the Penal Code.

SEC. 3. It is the intent of the Legislature that a victim of a sexual assault shall be accorded special consideration because of the severity of the emotional harm resulting from this type of crime. It is the further intent of the Legislature that this act shall not be interpreted to excuse any person other than a victim of a sexual assault from the prescribed penalties for contempt.

CHAPTER 1645

An act relating to childbirth.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. The Legislature finds and declares the following:

(a) Birth is one of the most intimate and emotional human events, the quality of which greatly contributes to the relationship between parents and infants and to the child's physiological, neurological, and behavioral development.

(b) Everyone, individually and as a society, benefits from and creates the healthiest birth experience for each newly arriving baby.

(c) Social and familial value can be gained from a gentle and nurturing birth experience that acknowledges and enhances the relationship between the psychological, sociological, and physiological aspects of the experience, that actively involves the father as an integral part of the process, and that allows the parents more informed and aware involvement in their own experience, which thereby reestablishes birth as a joyous, healthy family event.

(d) There have been in recent years significant developments, such as research, information, and changes in practice, regarding more humane and healthy birthing, including natural childbirth and breastfeeding.

(e) There has developed a marked demand for alternative birthing methods, which in some areas, exceeds the supply of legalized birthing methods, and supports a community of practitioners of alternative methods.

(f) There are many areas in this state where people do not have access to the entire spectrum of prenatal, birthing, or postpartum care because of the partial or total absence of licensed trained professionals in their communities.

(g) In 1983, the cost for a normal physician-attended hospital birth frequently exceeded two thousand dollars ($2,000). There is an unknown number of families who do not have public or private medical insurance and cannot afford adequate medical care because of the prohibitive costs.

(h) There are, in 1984, about 370 nurse midwives certified to

practice in California, although less than one-half of them are engaged in full-time practice. The number of practicing noncertified midwives appears to be at least 800, and may be greater.

(i) The Board of Registered Nursing now licenses certified nurse midwives.

(j) Certified nurse midwives face many barriers in their practice that limit their ability to function and meet the consumer demand for their services. These barriers include lack of hospital privileges, unavailability of malpractice insurance, lack of a consistent reimbursement mechanism, the inability to administer limited amounts of specified medications, and the requirement of a supervision agreement rather than a consultation arrangement with physicians and surgeons.

(k) The four educational facilities presently available for the training of practitioners in the field of alternative birthing methods, including certified nurse midwives, are often prohibitively expensive, lack sufficient scholarships and student loans, and are not accessible to many nurse practitioners.

(*l*) Physicians and surgeons who supervise certified nurse midwives, as provided for in statute, face many barriers in their own practice of medicine, including the prohibitive additional cost or unavailability of adequate malpractice insurance and the denial of hospital privileges.

(m) A number of states of the United States have successfully removed many of the barriers to the practice of alternative birthing methods.

SEC. 2. The Legislature further finds that:

(a) It is in the public interest to encourage and conduct a public dialogue about healthy birthing, and the pros and cons of alternative processes.

(b) There have been increasing studies in the area of birthing, including alternative birthing methods, but the studies have not been systematic, comprehensive, and authoritative.

(c) It is in the public interest to encourage, foster, and coordinate existing studies in the field of alternative birthing methods in order to educate the public about the availability of these alternatives, and to utilize the research in forming public policy if the study reveals a need for new or additional public policy.

(d) The Office of Statewide Health Planning and Development was created to assure the accessibility of needed and appropriate health services to the people of California at affordable costs, and is the appropriate state agency to carry out this study.

SEC. 3. It is the intent of the Legislature to do all of the following:

(a) Generate a full-scale public dialogue, among all interested persons, of all experiences, training, and viewpoints, regarding the healthy birthing process.

(b) Produce a comprehensive, systematic, and authoritative study of alternative birthing methods, to be utilized in forming new public policy, if the need is established.

(c) Consider whether there is a need to encourage new experiments in health care delivery, to designate new categories of health practitioners, or to expand existing legislation to facilitate the use of safe alternative birthing methods, or to do any or all the above.

(d) Involve the Office of Statewide Health Planning and Development and the professional and lay communities involved in alternative birthing methods in forming public policy.

SEC. 4. (a) The Office of Statewide Health Planning and Development shall conduct a study of alternative birthing methods, subject to the availability of funds for this purpose.

(b) The study pursuant to subdivision (a) shall do all of the following:

(1) Identify, review, and evaluate existing studies and training programs, including, but not limited to, the prototype Stanford University Medical Center Women's Health Care Training Project, the study being completed by the American College of Obstetrics, California Branch, and the experiences of other states in the area of alternative birthing methods.

(2) Sponsor and conduct a minimum of five public meetings to invite the public, lay and professional, to participate and collect further information. These meetings shall be held in both northern and southern California, in both urban and rural areas, in areas which are presently unserved, and in areas which are underserved by the licensed medical profession, and in areas where a full and a narrow range of traditional and alternative birthing methods are available.

(3) Systematically obtain and evaluate information, including information obtained from the public meetings, on the best ways to healthy, humane birth for each baby, and on the need and demand for alternative methods of maternity and delivery care, the capabilities of existing health care providers to meet those needs, and the legal, economic, and educational barriers faced by individuals attempting to meet these needs, and how to educate prospective parents regarding all this so that each can make an informed best choice.

(4) After reviewing all information and compiling the necessary data base, provide findings and recommendations concerning how to assure safe and healthy birthing and whether to legalize or otherwise encourage, prohibit, or condition various birthing techniques, including alternative ones, that would provide consumers with a full range of safeguarded choices, reach into unserved and underserved areas and populations, whether to legalize new classes of practitioners, how best to provide for the training of practitioners, and remove the impediments facing the legal community of practitioners, if appropriate.

(5) The identity of individual participants in this study shall remain confidential, unless confidentiality is waived by the participant. Noncertified practitioners shall not be prosecuted based upon information derived from their coming forth and participating in this study.

SEC. 5. (a) There is hereby created in the Office of Statewide Health Planning and Development a statewide advisory committee on healthy humane birthing for the purpose of advising the office on the design and implementation of the study, described in Section 4, and to review and comment on the final report as provided in this chapter.

(b) The advisory committee shall consist of no more than 15 persons, including the following:

(1) A consumer.

(2) A health facility administrator.

(3) An educator of a licensed midwifery program.

(4) Nurse midwife.

(5) Physician assistant.

(6) An obstetrician selected from a list of three candidates nominated by the American College of Obstetricians and Gynecologists, District 9.

(7) A family practitioner selected from a list of three candidates nominated by the California Academy of Family Physicians.

(8) A pediatrician selected from a list of three candidates nominated by the American Academy of Pediatrics.

Membership of the committee shall be socio economically and culturally diverse.

(c) The advisory committee shall be appointed by the Director of Statewide Health Planning and Development.

(d) The committee members shall serve without compensation except for travel and per diem expenses.

(e) The advisory committee members shall serve until the final report is submitted to the Legislature, after which time the committee shall be disbanded.

SEC. 6. The results of the study conducted pursuant to this act shall be reported to the Legislature on or before March 30, 1986.

CHAPTER 1646

An act to amend Section 8855 of the Government Code, and to add Chapter 5 (commencing with Section 130500) to Division 12 of the Public Utilities Code, relating to bonds.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984]

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

SECTION 1. Section 8855 of the Government Code is amended to read:

8855. (a) There is created the California Debt Advisory Commission, consisting of nine members, selected as follows:

(1) The Treasurer, or his or her designate.

(2) The Governor or the Director of Finance.

(3) The Controller, or his or her designate.

(4) Two local government finance officers appointed by the Treasurer, one each from among persons employed by a county and by a city or a city and county of this state, experienced in the issuance and sale of municipal bonds and nominated by associations affiliated with these agencies.

(5) Two Members of the Assembly appointed by the Speaker of the Assembly.

(6) Two Members of the Senate appointed by the Senate Committee on Rules.

(b) The term of office of an appointed member is four years, but appointed members serve at the pleasure of the appointing power. In case of a vacancy for any cause, the appointing power shall make an appointment to become effective immediately for the unexpired term.

Any legislators appointed to the commission shall meet with and participate in the activities of the commission to the extent that the participation is not incompatible with their respective positions as Members of the Legislature. For purposes of this chapter, the Members of the Legislature shall constitute a joint interim legislative committee on the subject of this chapter.

(c) The Treasurer shall serve as chairperson of the commission and shall preside at meetings of the commission. The commission, on or after January 1, 1982, and annually thereafter, shall elect from its members a vice chairman and a secretary who shall hold office until the next ensuing December 31 and shall continue to serve until their respective successors are elected.

(d) Appointed members of the commission shall not receive a salary, but shall be entitled to a per diem allowance of fifty dollars ($50) for each day's attendance at a meeting of the commission not to exceed three hundred dollars ($300) in any month, and reimbursement for expenses incurred in the performance of their duties under this chapter, including travel and other necessary expenses.

(e) The commission shall do all of the following:

(1) Assist the Housing Bond Credit Committee and all state financing authorities and commissions in carrying out their responsibilities as prescribed by law, including assistance with respect to federal legislation pending in Congress.

(2) Upon request of any state or local government units, to assist them in the planning, preparation, marketing, and sale of new debt issues to reduce cost and to assist in protecting the issuer's credit.

(3) Collect, maintain, and provide information on state and local debt authorization, sold and outstanding, and serve as a statistical center for all state and local debt issues.

(4) Maintain contact with state and municipal bond issuers, underwriters, credit rating agencies, investors, and others to improve the market for state and local government debt issues.

(5) Undertake or commission studies on methods to reduce the costs and improve credit ratings of state and local issues.

(6) Recommend changes in state laws and local practices to improve the sale and servicing of state and local debts.

(f) The commission may adopt bylaws for the regulation of its affairs and the conduct of its business.

(g) The issuer of any proposed new debt issue of state or local government shall, no later than 30 days prior to the sale of any debt issue at public or private sale, give written notice of the proposed sale to the commission, by mail, postage prepaid.

(h) The notice shall include the proposed sale date, the name of the issuer, the type of debt issue, and the estimated principal amount thereof. Failure to give this notice shall not affect the validity of the sale.

(i) The commission shall publish a monthly newsletter describing and evaluating the operations of the commission during the preceding month.

(j) The commission shall meet on the call of the chairperson, or at the request of a majority of the members, or at the request of the Governor. A majority of all nonlegislative members of the commission constitutes a quorum for the transaction of business.

(k) All administrative and clerical assistance required by the commission shall be furnished by the Office of the Treasurer.

SEC. 2. Chapter 5 (commencing with Section 130500) is added to Division 12 of the Public Utilities Code, to read:

CHAPTER 5. LOS ANGELES COUNTY TRANSPORTATION COMMISSION REVENUE BOND ACT

Article 1. General Provisions

130500. This chapter shall be known and may be cited as the Los Angeles County Transportation Commission Revenue Bond Act.

130501. The Legislature finds that alternative methods of financing provided in this chapter are needed to finance the cost of acquiring, constructing, and developing facilities for transit systems in the County of Los Angeles and that these methods will increase economic opportunities, contribute to economic development, be in the public interest and serve a public purpose, and promote the health, safety, and welfare of citizens within the County of Los Angeles.

130502. It is the purpose of this chapter to carry out and make effective the findings of the Legislature and, to that end, to provide an alternative method of financing in acquiring, constructing, or rehabilitating facilities to be used as part of transit systems, all to the mutual benefit of the people of the County of Los Angeles and to protect their health and welfare.

Article 2. Definitions

130510. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

130511. "Bonds" means indebtedness and securities of any kind or class, including bonds, notes, bond anticipation notes, commercial paper, and other obligations.

130512. "Commission" means the Los Angeles County Transportation Commission created pursuant to Section 130050 and any board, commission, department, or officer succeeding to the functions thereof or to whom the powers conferred upon the commission by this division is granted by law.

130513. "Cost," as applied to a project or portion thereof financed under this chapter, means all or any part of the cost of construction and acquisition of all real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project, the cost of demolishing or removing any structures on land so acquired, including the cost of acquiring any land to which the structures may be removed, the cost of all machinery and equipment, vehicles, rolling stock, financing charges, interest prior to, during, and for a period after completion of construction as determined by the commission, provisions for working capital, reserves for principal and interest, and for extensions, enlargements, additions, replacements, renovations, and improvements, the cost of architectural, engineering, financial, and legal services, plans, specifications, estimates, and administrative expenses, and other expenses necessary or incidental to the determination of the feasibility of constructing any project or incidental to the construction, acquisition, or financing of any project.

130514. "Notes" means notes and agreements relating thereto, bond anticipation notes, and commercial paper.

130515. "Transit project" or "project" means real and personal property, including, but not limited to, land, structures and all improvements thereto, works, vehicles, rolling stock, rights-of-way, easements, rail lines, rail beds, stations, platforms, switches, yards, terminals, parking facilities, other facilities adjacent to or nearby rail transit stations which are designed to be used in conjunction with the station, and any and all other facilities or equipment necessary or convenient for the provision of transit service, whether under, on, or above the ground, including public streets, highways, bridges, or other public ways or waterways, together with all physical structures necessary or convenient for the access of persons and vehicles thereto.

130516. "Public agency" means any state agency, department, board, or commission, any county, city, regional agency, district, or other political subdivision.

130517. "Public transit purposes," as used in this chapter and in Section 130354, includes a pledge of transactions and use tax revenues to secure any bonds issued pursuant to this chapter, the payment or

provision for payment of the principal of the bonds and any premium, interest on the bonds, and the costs of issuance of the bonds.

130518. "Revenues" means all rents, receipts, purchase payments, and all other income or receipts derived by the commission, whether from fares, the sale, lease, or other disposition of transit facilities or projects or otherwise, and any income or revenue derived from the investment of any money in any fund or account of the commission.

130519. (a) The "Los Angeles Metro Rail project" means an 18.6 mile rail line and necessary support facilities and equipment as described in the June 1983 Environmental Impact Statement and Environmental Report, Los Angeles Rail Rapid Transit Project, Metro Rail.

(b) The "initial segment of the Los Angeles Metro Rail project" means that portion of the project which the United States Department of Transportation has approved and committed federal funds for initial construction.

Article 3. General Powers and Duties

130520. The commission may incur indebtedness and obligations as provided by this chapter.

130521. The commission may acquire by deed, purchase, lease, contract, gift, devise, or otherwise, any real or personal property, structures, rights, rights-of-way, franchises, easements, air, land, and development rights, and other interests in lands located within this state necessary or convenient for the construction or operation of a project, upon terms and conditions it deems advisable, and to lease, develop, jointly develop, maintain, operate, or dispose of any property, right, or interest in the manner that is necessary or desirable to carry out the objects and purposes of this chapter. Nothing in this chapter provides eminent domain power.

130522. The commission may do all of the following:

(a) Fix, collect, and revise from time to time, rates, rents, fees, fares, and charges for the use of, and for any facilities furnished or to be furnished by, a project or any part thereof, except that no rent, fee, fare, or charge may be imposed on an operator for the use of the facilities used in the operation of its transit guideway system.

(b) Contract with any individual, partnership, association, corporation, or public agency with respect to a project.

(c) Provide and maintain, by contract with any public agency or otherwise, a security force to enforce its regulations, preserve and protect the projects financed pursuant to this chapter, and preserve and protect the public peace, health, and safety with respect to these projects.

Article 4. Bonds and Notes

130530. The commission may issue bonds for purposes authorized by this chapter, and to fund or refund them, pursuant to this chapter.

130531. Notwithstanding any other provision of law:

(a) The commission and its revenues are exempt from all taxes on, or measured by, income.

(b) Bonds issued by the commission are exempt from all property taxation, and the interest on the bonds are exempt from all taxes on income.

(c) All property owned by the commission is exempt from property taxes, assessments, and other public charges secured by liens.

130532. The commission may from time to time issue or renew notes in anticipation of the sale of bonds or otherwise. The commission may also issue notes partly to renew notes or to discharge any other outstanding obligation and partly for any other purpose. Notes may be authorized, sold, and delivered in the same manner as bonds. Any resolution of the commission authorizing notes may contain any provision which the commission may include in any resolution authorizing bonds, and the commission may include in the notes any terms, covenants, or conditions which it may include in bonds. Notes shall be paid from any revenues of the commission or other money available therefor and not otherwise pledged, or from the proceeds of the sale of the bonds in anticipation of which the notes were issued, subject to any contractual rights of the holders of any outstanding notes or other obligations.

130533. (a) Except as provided in this subdivision and as may be otherwise expressly provided by the commission, all issues of its bonds are special obligations of the commission payable from any revenues or money of the commission available therefor and not otherwise pledged, subject only to any agreement with the holders of particular bonds pledging any particular revenues or money. However, the commission may not pledge revenues or money from the following sources: federal funds provided under Sections 1602 and 1607a of Title 49 of the United States Code, funds allocated pursuant to subdivisions (a) and (b) of Section 99312 from a state transit assistance fund created pursuant to Section 99313.6, funds allocated from the Transportation Planning and Development Account in the State Transportation Fund, funds subject to Article XIX of the California Constitution, and funds provided pursuant to the Mills-Alquist-Deddeh Act (Chapter 4 (commencing with Section 99200) of Part 11 of Division 10).

(b) The commission may not pledge any of its revenue derived from the retail transactions and use tax which have been allocated to a city pursuant to the ordinance adopted pursuant to Section 130350, unless the city has authorized the pledging of its allocation.

(c) Notwithstanding that the bonds may be payable from a special fund, they are for all purposes negotiable instruments, subject only

to the provisions of the bonds for registration.

130534. (a) The bonds may be issued as serial bonds or as term bonds, or the commission, in its discretion, may issue bonds of both types.

(b) The bonds shall be authorized by resolution of the commission and shall bear the date or dates, mature at the time or times, not exceeding 50 years from their respective dates, bear interest at the rate or rates, be payable at the time or times, be in the denominations, be in registered form, carry the registration privileges, be executed in the manner, be payable in lawful money of the United States of America at the place or places, and be subject to the terms of redemption, as the resolution or resolutions may provide.

(c) The bonds may be sold at public or private sale, and for the price or prices and on the terms and conditions as determined by the commission.

(d) Pending preparation of the bonds, the commission may issue interim receipts, certificates, or temporary bonds which shall be exchanged for the bonds. The commission may sell any bonds at a price below the par value thereof without any limitation on price.

130535. (a) At times that the commission desires to issue bonds, it shall adopt a resolution specifying the total amount of bonds proposed to be issued.

(b) Any resolution authorizing any bonds, or any issue of bonds, shall, to the extent applicable, contain provisions, which are a part of the contract with the holders of the bonds to be authorized, as to the following:

(1) Pledging all or any part of the revenues of any project or any revenue-producing contract or contracts made by the commission with any individual, partnership, corporation, or association or other body, public or private, or other money of the commission, to secure the payment of the bonds or of any particular issue of bonds, subject to any agreement with bondholders that may then exist.

(2) The rentals, fees, fares, purchase payments, and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues.

(3) The setting aside of reserves or sinking funds, and the regulation and disposition thereof.

(4) Limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied, and pledging the proceeds to secure the payment of the bonds or any issue of the bonds.

(5) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds.

(6) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds that the holders of which are required to consent thereto, and the manner in which the consent may be given.

(7) Limitations on expenditures for operating, administrative, or other expenses of the commission.

(8) Defining the acts or omissions to act which constitute a default in the duties of the commission to bondholders of the commission's obligations, and providing the rights and remedies of the bondholders in the event of a default.

(9) The mortgaging of any project, or any part thereof, for the purpose of securing the bondholders.

(10) The terms and conditions of the sale, whether public or private, including, but not limited to, the price, interest rates, terms to maturity, security arrangements, and any other terms and conditions which the commission deems necessary under the circumstances.

130536. Neither the members of the commission, nor any person executing the bonds, are liable personally on the bonds, or are subject to any personal liability or accountability by reason of the issuance thereof.

130537. The commission may, from any funds available therefor, purchase its bonds. The commission may hold, pledge, cancel, or resell the bonds, subject to, and in accordance with, agreements with the bondholders.

130538. (a) At the discretion of the commission, any bonds issued under this chapter may be secured by a trust agreement by and between the commission and a trustee, which may be any trust company or bank having the powers of a trust company within or without the state.

(b) The trust agreement, or the resolution providing for the issuance of the bonds, may pledge or assign the revenues to be received or the proceeds of any contract pledged and may convey or mortgage the project, or any portion thereof, to be financed out of the proceeds of the bonds. The trust agreement, or resolution providing for the issuance of the bonds, may contain provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including particularly provisions specifically authorized to be included in any resolution of the commission authorizing bonds.

(c) Any bank or trust company which does business under the laws of the United States or of this state, which has its principal place of business in this state, and which may act as depository of the proceeds of bonds or of revenues or other moneys may furnish indemnifying bonds or pledge securities as may be required by the commission.

(d) Any trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In addition, any trust agreement or resolution may contain other provisions that the commission may deem reasonable and proper for the security of the bondholders.

130538.5. The commission shall take no action which will materially impair the security pledged for any bonds which it has

previously issued.

130539. All expenses incurred in carrying out the provisions of the trust agreement or resolution may be treated as a part of the cost of the operation of a project.

130540. (a) Bonds issued under this chapter do not constitute a debt or liability of the state or of any other public agency, other than the commission, or a pledge of the faith and credit of the state or of any other public agency, other than the commission, but shall be payable solely from the funds provided therefor. All the bonds shall contain on the face thereof a statement to the following effect:

"Neither the faith and credit nor the taxing power of the State of California or any public agency, other than the Los Angeles County Transportation Commission, is pledged to the payment of the principal of, or interest on, this bond."

(b) The issuance of bonds under this chapter does not in any manner obligate the state or any other public agency thereof to levy, or to pledge any form of, taxation therefor or to make any appropriation for their payment.

130541. The commission may provide for the issuance of bonds of the commission for the purpose of refunding any bond then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of the bonds and, if deemed advisable by the commission, for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project or any portion thereof. The commission may issue refunding bonds to refinance its indebtedness only if the commission finds that the refunding is in the public interest due to the terms or conditions of the refunding, including, without limitation, lower net interest cost, maturity or maturities, call provisions, or similar terms and conditions.

130542. (a) The proceeds of any bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the commission, be applied to the purchase or retirement at maturity or redemption of outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or retirement at the maturity thereof and may, pending such application, be placed in escrow to be applied to the purchase or retirement at maturity or redemption on the date as may be determined by the commission.

(b) Pending that use, the escrowed proceeds may be invested and reinvested by the commission or its trustee in obligations of, or guaranteed by, the United States of America, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, maturing at a time or times appropriate to ensure the prompt payment of principal, interest, and redemption premium, if any, of the outstanding bonds to be so refunded. The interest, income, and profits, if any, earned or realized on the investment may also be applied to the payment of the

outstanding bonds to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of the proceeds and interest, income, and profits, if any, earned or realized on the investments thereof may be returned to the commission for use by it in any lawful manner.

130543. The proceeds of any bonds issued for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project may be invested and reinvested by the commission or its trustee in obligations of, or guaranteed by, the United States of America, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, maturing not later than the time or times when the proceeds will be needed for the purpose of paying all or any part of the cost. The interest, income, and profits, if any, earned or realized on the investment may be applied to the payment of all or any part of the cost or may be used by the commission in any lawful manner.

130544. Bonds issued pursuant to Section 130542 are subject to this chapter in the same manner and to the same extent as other bonds issued pursuant to this chapter.

130545. The bonds issued pursuant to this chapter are legal investments for all trust funds, the funds of all insurance companies, commercial or savings banks, trust companies, savings and loan associations, and investment companies, for executors, administrators, guardians, conservators, trustees, and other fiduciaries, for state school funds, and for any funds which may be invested in county, municipal, or school district bonds. The bonds are securities which may properly and legally be deposited with, and received by, any state or municipal officer or any public agency for any purpose for which the deposit of bonds or obligations of the state is now, or may hereafter be, authorized by law, including deposits to secure public funds.

Article 5. Supplemental Provisions

130550. This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes thereof.

130551. (a) This chapter provides a complete, additional, and alternative method for the doing of the things authorized thereby, and is supplemental and additional to powers conferred by other laws.

(b) The issuance of bonds and refunding bonds under this chapter need not comply with the requirements of any other law applicable to the issuance of bonds.

130552. The State of California does hereby pledge to, and agree with, the holders of any bonds issued under this chapter and with those parties who may enter into contracts with the commission pursuant to this chapter that the state will not limit or alter the rights

hereby vested in the commission until the bonds, together with the interest thereon, are fully met and discharged and the contracts are fully performed on the part of the commission. However, nothing in this section precludes that limitation or alteration if and when adequate provision has been made by law for the protection of the bondholder or those entering into contracts with the commission.

The commission, as agent for the state for this purpose only, may include this pledge and undertaking for the state in issuing its bonds and entering into contracts.

130553. To the extent that the provisions of this chapter, with respect to the financing of transit systems or facilities, are inconsistent with the provisions of any general statute or special act or parts thereof, with respect to the financing of transit systems or facilities, the provisions of this chapter are controlling. This section does not affect the authority of the Southern California Rapid Transit District to issue bonds, notes, or other evidences of indebtedness under Chapter 7 (commencing with Section 30900) of Part 3 of Division 10 or any other law.

130554. The commission shall give priority to construction of the overall transit system authorized in Los Angeles County Transportation Commission Ordinance No. 16. No more than 30 percent of the cost of the initial segment of the Los Angeles Metro Rail project shall be obtained from rail transit revenues to be obtained from revenue sources authorized in Los Angeles County Transportation Commission Ordinance No. 16. Furthermore, the commission shall not issue bonds in excess of one hundred million dollars ($100,000,000) to fund the Los Angeles Metro Rail project prior to December 31, 1986. The bonds shall be repaid from commission rail transit revenues. In the event that any bond proceeds are used for the system authorized by Los Angeles County Transportation Commission Ordinance No. 16, the Los Angeles County Transportation Commission and the Southern California Rapid Transit District shall report to the Legislature by December 31, 1986, on the status and funding of the Los Angeles Metro Rail project, including cost overruns, federal commitments and pledges for future funding, and local revenue sources.

No additional bonds shall be issued pursuant to this chapter after January 1, 1988, to finance portions of the Metro Rail project unless authorized by subsequent legislation.

CHAPTER 1647

An act to add and repeal Sections 15335, 15335.1, and 15335.2 of the Government Code, relating to economic and business development, and making an appropriation therefor.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 15335 is added to the Government Code, to read:

15335. The Legislature finds all of the following:

(a) While California has been, and will continue to be, an attractive location site for industrial and commercial development, the costs of locating in some areas of the state may be discouraging investment from taking place.

(b) At the same time, many other areas of the state offer economic advantages for industrial and commercial expansion and location, such as affordable land, housing, and public improvements.

(c) Several other states are utilizing computerized inventories of available industrial and commercial land and community attributes to facilitate the attraction and retention of industry.

(d) Several communities in California have undertaken the development of computerized inventories to enhance their industrial and commercial development activities.

(e) There is a need for the state to study the possible usefulness of land inventories, particularly for industrial and commercial expansion throughout relatively undeveloped parts of the state.

(f) There is a further need for the state to study the possible usefulness of assisting committees in the development of local industrial and commercial inventories.

This section shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1986, deletes or extends that date.

SEC. 2. Section 15335.1 is added to the Government Code, to read:

15335.1. It is the intent of the Legislature that the department, in carrying out the provisions of the act adding this section to the code, seek the advice of people with knowledge and experience about inventories of industrial and commercial land and community attributes.

It is also the intent of the Legislature that the director consult with the Joint Committee on the State's Economy, the Assembly Economic Development and New Technologies Committee, and the Lieutenant Governor on the identification of the above advisers.

This section shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1986, deletes or extends that date.

SEC. 3. Section 15335.2 is added to the Government Code, to read:

15335.2. The Director of Economic and Business Development shall prepare a report for submittal to the Legislature by December 31, 1985, assessing the possible usefulness of various options for the

development of state data bases of industrial and commercial land and community attributes. In preparing the report, the department shall do all of the following:

(a) Survey industrial inventories developed by other states.

(b) Survey industrial inventories developed by communities in California.

(c) Survey industrial and commercial inventories developed by the private sector.

(d) Assess the costs and benefits of developing in California industrial and commercial inventories of various types and scope. Consideration shall be given to inventories which collect and disseminate data only for high unemployment areas of the state.

(e) Evaluate how the environmental impact report data base compiled by the Governor's Office of Planning and Research may be integrated into an inventory developed by the department.

(f) Assess the possible usefulness of the state assisting in the standardization of the data on industrial and commercial land and community attributes which are collected at the local level and which might be incorporated into a state inventory at a future date.

(g) Determine if such an inventory is most appropriately compiled strictly by the private sector.

This section shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1986, deletes or extends that date.

SEC. 4. The sum of fifty-eight thousand dollars ($58,000) is hereby appropriated from the General Fund to the Department of Economic and Business Development for the purpose of preparing a report pursuant to this act.

CHAPTER 1648

An act to amend Sections 17300, 17301, and 17302 of, to add Sections 16754.3 and 17313 to, and to repeal Section 17312 of, the Government Code, to amend Section 4 of Chapter 391 of the Statutes of 1984, and to repeal Section 63 of Chapter 10 of the 1983–84 First Extraordinary Session, relating to state bonds, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 16754.3 is added to the Government Code, to read:

16754.3. The bonds specified in the resolution shall be sold by the Treasurer, at such time as may be fixed by the Treasurer, and upon such notice as the Treasurer may deem advisable, or at the time to

which the sale shall have been so continued, either at public sale, upon sealed bids, to the bidder whose bid will result in the lowest interest cost on account of those bonds or by negotiated sale if the Treasurer determines it will result in a lower interest cost. The Treasurer may sell the bonds at a price below the par value thereof, but the discount on bonds so sold shall not exceed 3 percent of the par value. The interest, if any, accrued to the date of delivery of, and payment for, the bonds shall be added to the sale price of the bonds in any case. The method of determining the lowest interest cost bid shall be prescribed in the bond resolution and shall be limited to either the net interest cost method or the present worth basis method (also referred to as the true interest cost, bond book basis, and Canadian interest cost method). The net interest cost of each bid shall be determined by ascertaining the total amount of interest which the state would be required to pay under that bid, from the date of the bonds to the respective maturity dates of the bonds then offered for sale, at the interest rate or rates specified in the bid, less the total amount of the premium, if any (or plus the total amount of the discount, if any), offered by the bid. The bid under which the amount so ascertained is the least shall be deemed to be the bid resulting in the lowest net interest cost. Under the present worth basis method, the bonds shall be awarded to the bidder submitting the lowest interest rate bid determined by doubling the semiannual interest rate, compounded semiannually, necessary to discount the debt service payments to the specified interest computation date and to the price bid. Under either method the sale shall be for cash, payable upon the delivery of the bonds in definitive form, or if the right to deliver temporary securities has been reserved, then upon the delivery of the temporary securities.

This section shall apply to any bonds authorized at any statewide election held at any time after the effective date of this section. Section 16754 shall apply only to bonds authorized at elections held before the effective date of this section.

SEC. 2. Section 17300 of the Government Code is amended to read:

17300. Whenever the Controller determines that moneys in the General Fund are, or are expected to be, insufficient for the payment of all appropriations by the Legislature which are required to be paid in the then current fiscal year out of the General Fund, the Controller, based upon his estimate of the probable income to the General Fund during the then current fiscal year and the probable dates of receipt thereof, may draw a demand or demands against appropriations made from the General Fund to be paid in the then current fiscal year prior to the receipt of the income, and deliver the same to the Treasurer. The Treasurer shall register the same for nonpayment and notify the Controller. The Controller shall then notify the Pooled Money Investment Board of the registered demand or demands. The board shall then advise the Governor of the registered demand or demands and of the board's determination

as to whether, and the extent to which, any transfers should then be made to the General Fund from other funds or accounts pursuant to Section 16310. Unless the Governor otherwise directs the board within five working days after the notification to the Governor, the board may then authorize the Treasurer to issue and sell notes of the State of California representing the registered demand or demands. Notes shall be issued only to raise funds in an amount sufficient to satisfy the Controller's registered demand or demands.

SEC. 3. Section 17301 of the Government Code is amended to read:

17301. Notes authorized to be issued may be sold by the Treasurer from time to time on a negotiated or a competitive bid basis as the Treasurer shall deem advisable. The Treasurer shall pay the notes and the interest thereon from moneys in the General Fund.

SEC. 4. Section 17302 of the Government Code is amended to read:

17302. The issuance of any notes pursuant to this part shall be authorized by a resolution adopted by the Treasurer with the approval of the Controller. Any note (a) may be negotiable, (b) may be payable to order or to bearer, (c) may be in any denomination, (d) shall be payable not later than the last day of the fiscal year in which the note has been issued and shall not be renewable beyond that date, (e) may bear interest at a rate or rates to be determined as provided by the resolution and payable as provided therein, (f) may be payable on a fixed date or upon demand of the holder of the note, and (g) may be made subject to prepayment or redemption at the option of the state or at the option of the holder.

SEC. 5. Section 17312 of the Government Code is repealed.

SEC. 6. Section 17313 is added to the Government Code, to read:

17313. It is the intent of the Legislature that this part shall, in all respects, fall within the procedures validated by, and meet the requirements for constitutionality set forth in, the California Supreme Court cases of Riley v. Johnson, (1933), 219 Cal. 513, Riley v. Johnson, (1936), 6 Cal. 2d 529, and Flournoy v. Priest, (1971), 5 Cal. 3d 350.

SEC. 7. Section 63 of Chapter 10 of the 1983–84 First Extraordinary Session is repealed.

SEC. 8. Section 4 of Chapter 391 of the Statutes of 1984 is amended to read:

Sec. 4. All ballots at the election shall have printed thereon and in a square thereof, the words: "Veterans Bond Act of 1984," and in the same square under the words the following in 8-point type: "This act provides for a bond issue of six hundred fifty million dollars ($650,000,000) to provide farm and home aid for California veterans." Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act. Where the voting of the election is done by means of voting machines used pursuant to law in such manner as to carry out the intent of this section, the

use of the voting machines, and the expression of the voters' choice by means thereof, shall be deemed to comply with the provisions of this section.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the procedures regarding registered demands specified by this act become effective in time for the commencement of the 1984–85 fiscal year, it is necessary that this act take immediate effect.

CHAPTER 1649

An act relating to Medi-Cal, and making an appropriation therefor.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. The Legislature recognizes that the present Medi-Cal dispensing fee for pharmacists is substantially below the average usual and customary fee for such professional services, and is altogether inadequate, even after the 3 percent increase given pharmacist providers in the Budget Act of 1984 (Chapter 258, Statutes of 1984) to compensate pharmacists for their services.

The Legislature further recognizes that, notwithstanding the 3 percent increase in the Budget Act of 1984, four years have passed since the dispensing fee was last adjusted. Evidence has been offered to show that, during that time, salary expenses, which are claimed to represent 60 percent of pharmacies' costs of doing business, have risen 30 percent.

SEC. 2. The sum of six hundred forty thousand dollars ($640,000) is hereby appropriated in augmentation of Schedule (e) of Item 4260-106-001 of the Budget Act of 1984 for reimbursement to pharmacist providers for professional services rendered under the Medi-Cal program. This appropriation is expressly made for an additional 5 percent increase in the pharmacists' dispensing fee over the 1983–84 fee, raising the dispensing fee as implementation of this measure to three dollars and eighty-nine cents ($3.89).

CHAPTER 1650

An act to add Section 21080.21 to the Public Resources Code, relating to environmental quality.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 21080.21 is added to the Public Resources Code, to read:

21080.21. This division does not apply to any project of less than one mile in length within a public street or highway or any other public right-of-way for the installation of a new pipeline or the maintenance, repair, restoration, reconditioning, relocation, replacement, removal, or demolition of an existing pipeline. For purposes of this section, "pipeline" includes subsurface facilities but does not include any surface facility related to the operation of the underground facility.

CHAPTER 1651

An act to add Chapter 3.6 (commencing with Section 44770) to Part 25 of the Education Code, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Chapter 3.6 (commencing with Section 44770) is added to Part 25 of the Education Code, to read:

CHAPTER 3.6. REGIONAL SCIENCE RESOURCE CENTERS

44770. In enacting this chapter, it is the intent of the Legislature to create and expand regional science resource centers to increase educational and training opportunities for the teachers and students of California. Towards that end, the Legislature intends to provide ongoing funding to support regional science resource centers, in partnership with nonprofit agencies which have demonstrated success in attaining private and governmental support for similar activities on a regional level.

44771. The Superintendent shall designate nonprofit agencies to serve as regional science resource centers. In order to be eligible to

be designated as a regional science resource center, a nonprofit agency shall demonstrate all of the following:

(a) A history of doing all of the following on a regional basis:

(1) Developing and operating a large variety of high quality science exhibits.

(2) Providing teacher training.

(3) Providing educational services for elementary and secondary school pupils.

(b) That its current efforts would be improved both qualitatively and quantitatively, and that a greater number of teachers and students would be served.

(c) Historic success in attracting private and public financial support for development and use of its science exhibits and for its teacher training programs.

(d) That its exhibits would be cross-referenced to appropriate instructional materials and strategies used by public school teachers providing science and mathematics instruction.

(e) The ability to train a minimum of 200 teachers each year in all grade levels.

(f) That local school districts have agreed to cooperate in the teacher training program by providing payment for a portion of the costs of release time for teacher training.

(g) A commitment to comply with all state and local regulations in establishing priorities and implementing this chapter.

44772. From funds appropriated for the purposes of this chapter, the superintendent shall allocate funds to applicant regional science resource centers. The superintendent shall review each center's application for funding to ensure that the funds will be used only for the purposes authorized by Section 44773, and that the objectives of this chapter will be carried out.

44773. Funds allocated to regional science resource centers pursuant to Section 44772 shall be used by the centers only for the following purposes:

(a) Expansion of science exhibits.

(b) Costs of institute staff training.

(c) Payment of a portion of the costs incurred by school districts using the center's services to train and retrain teachers.

(d) Expansion of teacher training services and educational services to students at exhibit sites and schools.

(e) Administration and evaluation of project funds.

(f) Classroom materials and supplies relating to science education developed by the center.

44774. Funds allocated to a regional science resource center pursuant to this chapter shall supplement, and shall not supplant, funding for the continuing efforts of these centers to provide teacher training or educational services to public schools.

44775. For the 1984–85 fiscal year, the Superintendent of Public Instruction shall designate one regional science resource center to receive funding pursuant to this chapter. The superintendent shall

evaluate the progress of the designated center towards the achievement of the objectives of this chapter. The superintendent shall provide information to the Legislature and the Governor during hearings on the Budget Act of 1985 regarding the progress of the designated center, and shall also submit a plan for the statewide expansion of regional science resource centers at that time.

SEC. 2. The sum of seven hundred fifty thousand dollars ($750,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction, to be allocated as follows:

(a) For state administration and evaluation of regional science resource centers, seventy-five thousand dollars ($75,000).

(b) For allocation to regional science resource centers, six hundred seventy-five thousand dollars ($675,000).

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to authorize the Superintendent of Public Instruction to designate a pilot regional science resource center for the 1984–85 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 1652

An act relating to pilots, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. There is in the state government a task force to review the existing piloting laws and regulations for the San Francisco, San Pablo, and Suisun Bays and to report its findings and recommendations to the Board of Pilot Commissioners for San Francisco, San Pablo, and Suisun Bays on or before January 1, 1985. Following submission of its report, the task force shall cease to exist. The members of the task force and any costs incurred by the task force shall not be reimbursed.

SEC. 2. The task force shall consist of the following seven members:

(a) Three members of the Board of Pilot Commissioners for San Francisco, San Pablo, and Suisun Bays, elected by that board.

(b) One member elected by the San Francisco Bar Pilot Association.

(c) One inland pilot member elected by the International Organization of Masters, Mates, and Pilots, Local 40, Ship Pilots' Division.

(d) Two members appointed by the Board of Directors of the Pacific Merchant Shipping Association.

SEC. 3. This act shall become operative on the date that Assembly Bill 1768 of the 1983–84 Regular Session of the Legislature is chaptered.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to carry out the review of existing laws and regulations provided for by this act, as soon as possible, that would provide information in promoting safety and conformity of pilotage systems on the San Francisco, San Pablo, and Suisun Bays, it is necessary that this act take effect immediately.

CHAPTER 1653

An act to amend the heading of Chapter 1 (commencing with Section 1100) of Division 5 of, to amend Sections 1105, 1120, 1121, 1122, 1125, 1126, 1127, 1128, 1130, 1136, 1150, 1151, 1152, 1153, 1154, 1158, 1159, 1160, 1162, 1167, 1170, 1171, 1175, 1190, 1192, and 1193 of, to amend and renumber Sections 1110, 1112, 1113, and 1114 of, to add Sections 1110, 1112, 1113, 1170.1, 1170.2, 1170.3, 1171.5, 1178, and 1179, to, to repeal and add Article 8 (commencing with Section 1140) of Chapter 1 of Division 5 and Chapter 6 (commencing with Section 1200) of Division 5 of, to repeal and add Sections 1177 and 1191 of, and to repeal Sections 1111, 1134, 1135, and 1168 of, the Harbors and Navigation Code, relating to pilots, and making an appropriation therefor.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. The heading of Chapter 1 (commencing with Section 1100) of Division 5 of the Harbors and Navigation Code is amended to read:

CHAPTER 1. PILOTS

SEC. 2. Section 1105 of the Harbors and Navigation Code is amended to read:

1105. The provisions of this division are applicable to pilots for San Francisco, Suisun, and San Pablo Bays.

SEC. 3. Section 1110 of the Harbors and Navigation Code is amended and renumbered to read:

1111. "Board" means the Board of Pilot Commissioners for San

Francisco, San Pablo, and Suisun Bays.

SEC. 4. Section 1110 is added to the Harbors and Navigation Code, to read:

1110. "Bays of San Francisco, San Pablo, and Suisun" means all the waters of those bays and of the tributaries, ports, and harbors of those bays, and include the water areas from the south end of San Francisco Bay and from the Ports of Sacramento and Stockton to the Golden Gate Bridge.

SEC. 5. Section 1111 of the Harbors and Navigation Code is repealed.

SEC. 6. Section 1112 of the Harbors and Navigation Code is amended and renumbered to read:

1114. "Pilot" means any person licensed under the authority of this division to pilot vessels other than an inland pilot. This term shall include persons licensed as bar pilots for the Bays of San Francisco, San Pablo, and Suisun prior to January 1, 1985. This term shall also include those existing inland pilots who become pilots pursuant to Section 1141 and those pilots licensed pursuant to subdivision (b) of Section 1171.

SEC. 7. Section 1112 is added to the Harbors and Navigation Code, to read:

1112. "High seas" includes all the navigable waters of the Pacific Ocean west of the Golden Gate Bridge.

SEC. 8. Section 1113 of the Harbor and Navigation Code is amended and renumbered to read:

1115. "Plan" or "pension" or "pension plan" means the San Francisco Pilot Pension Plan established pursuant to Chapter 3 (commencing with Section 1160) of this division.

SEC. 9. Section 1113 is added to the Harbors and Navigation Code, to read:

1113. "Inland pilot" means a person holding an inland pilot license pursuant to Section 1142.

SEC. 10. Section 1114 of the Harbors and Navigation Code is amended and renumbered to read:

1116. "Vessel" means all vessels not exempted under provisions of this division.

SEC. 11. Section 1120 of the Harbors and Navigation Code is amended to read:

1120. Vessels which use pilotage services, and their tackle, apparel, furniture, and other appurtenances, and their owners, operators, and agents are jointly and severally liable for pilotage fees.

SEC. 12. Section 1121 of the Harbors and Navigation Code is amended to read:

1121. If any pilot, in endeavoring to assist or relieve any vessel in distress, suffers loss or damage to the pilot's vessel, the owner and operator of the distressed vessel are jointly and severally liable for the loss or damage.

SEC. 13. Section 1122 of the Harbors and Navigation Code is amended to read:

1122. (a) A pilot carried to sea against the pilot's will, or unnecessarily detained on board a vessel when a pilot vessel is in attendance to receive the pilot, shall receive one hundred fifty dollars ($150) per day while so carried to sea or detained, plus reimbursement for any expenses incurred by the pilot in returning to the pilot station.

(b) The owner, operator, and agents of the detaining vessel are jointly and severally liable for paying the amount specified in subdivision (a).

(c) The total amount to which a detained pilot is entitled shall not exceed one thousand five hundred dollars ($1,500).

SEC. 14. Section 1125 of the Harbors and Navigation Code is amended to read:

1125. (a) Pilots licensed by the board have exclusive authority, to the extent not provided otherwise by federal law, to pilot vessels from the high seas to the Bays of San Francisco, San Pablo, and Suisun and the ports thereof, and from those bays and ports to the high seas. They shall also have exclusive authority to pilot vessels within and along the waters of those bays, except as otherwise set forth in this division.

(b) Nothing in this division shall interfere with pilotage regulations of the Ports of Sacramento and Stockton, nor prevent the regulatory authority of those ports from utilizing the pilots licensed pursuant to this division.

SEC. 15. Section 1126 of the Harbors and Navigation Code is amended to read:

1126. (a) Every person who is not the master or owner of the vessel or who does not hold a license as a pilot or as an inland pilot issued pursuant to this division, and who pilots any vessel into or out of any harbor or port of the Bays of San Francisco, San Pablo, and Suisun, or who acts as a pilot for ship movements or special operations upon the waters of those bays, is guilty of a misdemeanor. In addition to the fines or other penalties provided by law, the court may order that person to pay to the pilot entitled to pilot the vessel the amount of pilotage fees collected.

(b) Any person may also be enjoined from engaging in the pilotage prescribed by subdivision (a) by a court of competent jurisdiction.

(c) This section does not apply to any of the following persons:

(1) Persons piloting vessels pursuant to the valid regulatory authority of the Port of Sacramento and Stockton.

(2) Persons piloting vessels when a pilot is not available or is unable to reach the vessel.

(3) Persons piloting vessels sailing under an enrollment, as specified in Section 1127.

(4) Persons piloting vessels pursuant to Section 1179.

SEC. 16. Section 1127 of the Harbors and Navigation Code is amended to read:

1127. Every vessel sailing under a coastwise license or

appropriately endorsed registry and engaged in the coasting trade between any port of the Bays of San Francisco, San Pablo, and Suisun and any other port of the United States, is exempt from all pilotage charges unless a pilot is actually employed. Every foreign vessel and every vessel bound to or from a foreign port, and every vessel sailing under a register between any port of the Bays of San Francisco, San Pablo, and Suisun and any other port of the United States, is liable for pilotage.

SEC. 17. Section 1128 of the Harbors and Navigation Code is amended to read:

1128. Any vessel in tow of a tug within the Bay of San Francisco, San Pablo, or Suisun, or between or within their ports, is exempt from all charge for bay pilotage unless a pilot is actually employed.

SEC. 18. Section 1130 of the Harbors and Navigation Code is amended to read:

1130. (a) Before a pilot may pilot a vessel, the pilot shall execute an official bond in the sum of five thousand dollars ($5,000), to be approved by the board. The bonds of pilots appointed by the board shall be filed with the board.

(b) For every violation of this division, or of rules and regulations adopted pursuant to this division, a pilot shall incur a liability on the pilot's official bond, to the party aggrieved, to the amount of the damages sustained.

(c) The pilots shall appoint one of their members to act as port agent to carry out the orders of the board, other applicable laws, and otherwise administer the affairs of the pilots. The appointment shall be subject to the confirmation of the board.

SEC. 19. Section 1134 of the Harbors and Navigation Code is repealed.

SEC. 20. Section 1135 of the Harbors and Navigation Code is repealed.

SEC. 21. Section 1136 of the Harbors and Navigation Code is amended to read:

1136. Every pilot licensed pursuant to this division shall do all of the following:

(a) Take an oath of office in the manner prescribed by law.

(b) Submit monthly to the board a verified account of all moneys received by the pilot as a result of pilotage services, or by any other person for the pilot, or on the pilot's account, on the forms furnished by the board.

(c) Pay monthly to the board 5 percent of all bar pilotage fees, or the lesser percentage which may be established by the board, with the approval of the Department of Finance, to fully compensate the board for its official services, for the services of its secretary and treasurer, and for all its incidental expenses.

SEC. 22. Article 8 (commencing with Section 1140) of Chapter 1 of Division 5 of the Harbors and Navigation Code is repealed.

SEC. 23. Article 8 (commencing with Section 1140) is added to Chapter 1 of Division 5 of the Harbors and Navigation Code, to read:

Article 8. State Certified Pilotage

1140. (a) It is the intent of the Legislature to provide for a unified system of state regulated bar and inland pilotage for the Bays of San Francisco, San Pablo, and Suisun.

(b) In order to carry out the unification of pilotage without interfering with the employment of presently operating inland pilots, those pilots operating as inland pilots may continue to do so in accordance with the provisions of Section 1142.

(c) The Legislature finds and declares that unified pilotage will be beneficial to the safety of people, vessels, and property using those bays.

(d) The Legislature further finds and declares that unified systems of regulated pilotage are common to the ports of the world and are most familiar to, and best able to serve, both foreign and domestic vessels.

1141. (a) Upon application, the board shall issue a pilot license to those existing inland pilots who apply for the license on or before March 31, 1985.

(b) An existing inland pilot is one who was actually and regularly piloting self-propelled vessels in excess of 4,000 gross tons within the Bays of San Francisco, San Pablo, and Suisun, or tributaries of those bays continously during 1983, except that the board shall issue a pilot license, pursuant to subdivision (a), to an existing inland pilot who was disabled during all or part of 1983, upon the presentation of satisfactory proof of medical disability to the board.

1141.5. (a) A pilot license shall not be renewed if the pilot possessing the license does not actively pilot vessels for any consecutive period of one year, unless the board determines the pilot is qualified and makes one of the following findings:

(1) The pilot has presented satisfactory proof of medical disability during that period.

(2) The board has granted the pilot a leave of absence without pay during that period.

(3) The pilot is a port agent under subdivision (c) of Section 1130.

(b) A pilot licensee shall at all times hold an active and proper license to pilot vessels on the waters on which the pilot operates.

(c) The board may revoke or suspend the license of any pilot who does not use proper equipment maintained exclusively for pilotage or who operates on territorial waters not described in the license.

1142. (a) The board shall issue an inland pilot license to those existing inland pilots who apply for the license on or before March 31, 1985.

(b) Each inland pilot license shall be for a period of one year and may be renewed upon application and the applicant's passing of the physical examination required in Section 1176.

(c) An inland pilot license shall not be renewed if the pilot possessing the license does not actively pilot vessels for any

consecutive period of one year, unless the board determines that the pilot has presented satisfactory proof of medical disability during that period or unless the board has granted the pilot a leave of absence without pay during that period.

(d) An inland pilot shall at all times hold an active and proper license to pilot vessels on the waters on which the pilot operates.

(e) The board may revoke or suspend the license of any inland pilot who does not use proper equipment or who operates on territorial waters not described in the license. No license may be revoked or suspended by the board without a full and open prior public hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

1143. On or before January 31, 1985, the board shall provide notice to existing inland pilots of their rights to make application for a license pursuant to Sections 1141 and 1142. The notice shall be published at least once a week for four weeks in a newspaper of general circulation specializing in commercial activities in the San Francisco area. The notice shall include the texts of Sections 1141 and 1142.

SEC. 24. Section 1150 of the Harbors and Navigation Code is amended to read:

1150. (a) There is in the state government a Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun, consisting of seven members apointed by the Governor, with the consent of the Senate, as follows:

(1) Two members shall be pilots, one of whom shall be licensed as a bar pilot, and one of whom shall be selected from among those serving as inland pilots on the effective date of the amendment of this section by the 1983–84 Regular Session of the Legislature. Subsequent pilot member vacancies shall be filled by pilots licensed pursuant to this division.

(2) Two members shall represent the industry and shall be persons currently engaged as owners, officers, directors, employees, or representatives of firms, or associations of firms, which are substantial users of pilotage service in San Francisco, San Pablo, and Suisun Bays, one of whom shall be engaged in the field of tanker company operations, and one of whom shall be engaged in dry cargo operations. The board of directors of a regional maritime trade association controlled by West Coast vessel operators which specifically represents the owners and operators of vessels or barges engaged in transportation by water of cargo or passengers from or to the Pacific area of the United States shall nominate, rank, and submit to the Governor the names of three persons for each category of industry member to be appointed. Industry member vacancies shall be filled by the same process. The persons serving as industry members of the Pilotage Rate Committee on December 1, 1984, shall serve as the industry members pursuant to this paragraph and subdivision (b).

(3) Three members shall be public members and shall be appointed by the Governor. Any person may serve as a public member unless otherwise prohibited by law.

(4) Notwithstanding any other provision of law, nothing contained in this chapter shall prohibit the Governor from notifying the respective nominating authorities identified in paragraph (2) of this subdivision that persons nominated are unacceptable for appointment. Following that notification, the nominating authority shall submit a new list of nominees to the Governor naming three persons for each board vacancy, none of which were previously nominated, from which the Governor may make the appointment. This process shall be continued until persons nominated by the nominating authority and satisfactory to the Governor have been appointed.

(b) Each of the members appointed pursuant to subdivision (a) shall be appointed for a four-year term, and shall not be appointed for more than two terms. Vacancies on the board for both expired and unexpired terms shall be filled by the appointing power in the manner prescribed by subdivision (a).

(c) The board members serving on January 1, 1985, shall continue to serve as the public members on the board and shall select one board member to serve a two-year term, one board member to serve a three-year term, and one board member to serve a four-year term. The board member selected for the initial two-year term may serve two additional four-year terms, if appointed pursuant to this section, and the remaining board members may only serve one additional four-year term, if appointed pursuant to this section.

(d) A quorum of the board members consists of four members, including at least one industry member and one pilot member. All actions of the board shall require the vote of four members, a quorum being present.

SEC. 25. Section 1151 of the Harbors and Navigation Code is amended to read:

1151. Each member of the board shall be a citizen of the United States. The member shall be a resident of one of the following counties: San Francisco, Alameda, Contra Costa, Marin, Sacramento, San Mateo, Santa Clara, Solano, San Joaquin, Napa, Sonoma, or Yolo. The member shall hold office during the pleasure of the power appointing the member, not to exceed four years from the date of the member's commission.

SEC. 26. Section 1152 of the Harbors and Navigation Code is amended to read:

1152. The public members of the board shall receive, as compensation for their services, the amount which the board may, from time to time, determine, which shall not exceed three hundred dollars ($300) each per month. The members, officers, and employees of the board shall also be allowed their necessary and verified expenses resulting from the performance of their duties.

SEC. 26.5. Section 1153 of the Harbors and Navigation Code is

amended to read:

1153. The board shall organize itself by electing a president, and shall provide offices in the City of San Francisco, in which it shall meet once a month and it may adjourn its regular meetings from time to time.

Meetings of the board are subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 27. Section 1154 of the Harbors and Navigation Code is amended to read:

1154. The board shall make and enforce rules and regulations for the regulation of pilots pursuant to this division.

SEC. 28. Section 1158 of the Harbors and Navigation Code is amended to read:

1158. The public members and the secretary of the board shall not have any interest in any pilot vessel or tug, or in the earnings thereof, except for the compensation provided in this chapter.

SEC. 29. Section 1159 of the Harbors and Navigation Code is amended to read:

1159. (a) All moneys received by the board pursuant to the provisions of any law shall be accounted for at the close of each month to the Controller in the form which the Controller may prescribe and, at the same time on the order of the Controller, all these moneys shall be paid into the State Treasury to the credit of the Board of Pilot Commissioners' Special Fund.

(b) Notwithstanding Section 13340 of the Government Code, the moneys deposited in the State Treasury to the credit of the Board of Pilot Commissioners' Special Fund are appropriated without regard to fiscal years for the payment of the compensation and expenses of the board, its officers and employees, and the training programs.

SEC. 30. Section 1160 of the Harbors and Navigation Code is amended to read:

1160. There is hereby established a San Francisco Bar Pilot Pension Plan which is continued in existence as the San Francisco Pilot Pension Plan.

SEC. 31. Section 1162 of the Harbors and Navigation Code is amended to read:

1162. (a) The pension plan shall be administered and all benefit payments shall be made by a fiduciary agent selected by the board. Except for the collection of revenues in accordance with Section 1165 and the pilots serving as board members, the pilots shall have no control of any kind or manner over the operation, administration, or management of the plan.

(b) All revenues pursuant to the plan shall be collected by the pilots, at no cost to the state, board, or committee, and transmitted monthly to the fiduciary agent. The revenues shall not be included in the account required by Section 1136.

SEC. 32. Section 1167 of the Harbors and Navigation Code is amended to read:

1167. The board shall annually review the pension plan and make any recommendations it deems necessary for changes in the plan.

SEC. 33. Section 1168 of the Harbors and Navigation Code is repealed.

SEC. 34. Section 1170 of the Harbors and Navigation Code is amended to read:

1170. The board shall appoint and license the number of pilots which is sufficient to carry out the purposes of this division, except that this section shall not apply to, or preclude, the licensing of pilots pursuant to Section 1141.

SEC. 35. Section 1170.1 is added to the Harbors and Navigation Code, to read:

1170.1. In determining the number of pilots needed, pursuant to Section 1170, the board shall take into consideration the findings and declarations in Sections 1100 and 1101, the results of an audit made pursuant to, and the factors specified in, Section 1203, the industry's current economic trends, fluctuations in the number of vessel calls, the size of vessels, and whether the need for pilotage is increasing or decreasing.

SEC. 36. Section 1170.2 is added to the Harbors and Navigation Code, to read:

1170.2. Before changing the number of pilots which may be licensed pursuant to this division, the board shall conduct a hearing pursuant to Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 37. Section 1170.3 is added to the Harbors and Navigation Code, to read:

1170.3. (a) The board shall adopt, by regulation, a pilot's conflict-of-interest code which shall include, but not be limited to, a provision specifying that a pilot shall not have any interest in, or derive any income from, any tugboat in operation on the Bays of San Francisco, San Pablo, and Suisun or the tributaries thereof, although any person who had an interest in such a tugboat on January 1, 1982, shall not be required to divest that interest until December 31, 1985. This requirement of divestiture does not apply to the ownership of barges and vessels similar to barges.

(b) The conflict-of-interest code shall not prohibit the ownership of stock in any corporation registered on a national securities exchange, pursuant to Section 78f of Title 15 of the United States Code, which may own tugboats in operation on the Bays of San Francisco, San Pablo, and Suisun or their tributaries.

SEC. 38. Section 1171 of the Harbors and Navigation Code is amended to read:

1171. (a) Except as provided by Section 1141, the board shall have the sole authority to determine the qualifications for obtaining a license as a pilot pursuant to the provisions of this division, determine who shall have such a license, and issue the license.

(b) All persons possessing a valid state pilot's license on January 1, 1985, are hereby licensed as if the license was granted by the board.

SEC. 39. Section 1171.5 is added to the Harbors and Navigation Code, to read:

1171.5. (a) The board shall adopt, by regulation, licensing standards which shall be equal to, or exceed, standards for obtaining federal endorsements and which shall conform with and support the state policy specified in Sections 1100 and 1101.

(b) Within six months after the new board members appointed pursuant to subdivision (a) of Section 1150 are sworn into office, the board shall adopt reasonable rules and regulations which require pilots to be qualified to perform all pilot duties.

(c) The board shall adopt training standards and a training program established by the board for persons who apply for a pilots license and are accepted into the training program, except that those persons who apply for a license pursuant to Sections 1141 and 1142 are exempt from the requirements of this section.

(d) The board shall establish a pilot evaluation committee consisting of five active pilots who each have at least 10 years' experience as a pilot on the Bays of San Francisco, San Pablo, and Suisun. The board shall select the members of the pilot evaluation committee. A member may not serve for more than two four-year terms, except that two of the initial members appointed to the pilot evaluation committee shall serve terms of two years.

(e) The pilot evaluation committee shall conduct and supervise the pilot training programs pursuant to the direction and regulation of the board and consistent with the intent of this division.

(f) The board shall issue a certificate of completion to each person who satisfactorily completes the training program. After the board has adopted regulations pursuant to subdivision (a), the board shall not issue a pilot's license to any person who does not receive a certificate of completion of the training program by the board, although the board may refuse to issue a pilot license to a person who has received this certificate.

(g) The training program shall be funded from the Board of Pilot Commissioners Special Fund pursuant to Section 1159.

SEC. 40. Section 1175 of the Harbors and Navigation Code is amended to read:

1175. No person shall be licensed as a pilot unless all of the following requirements are met:

(a) The person can meet the qualifications set by the board, including age limitations, if any.

(b) The person is of good mental and physical health and good moral character.

(c) The person possesses the requisite skill and experience as a navigator and pilot, together with practical knowledge of the currents, tide, soundings, bearings, and distances of the several shoals, and the rocks, bars, points of landings, lights, and fog signals of, or pertaining to, the navigation of the pilot ground for which the person applies for a license to act as a pilot.

(d) The person can satisfy the board that the person has means

available for boarding and leaving vessels which the person may be called upon to pilot.

SEC. 41. Section 1177 of the Harbors and Navigation Code is repealed.

SEC. 42. Section 1177 is added to the Harbors and Navigation Code, to read:

1177. On or before January 31, 1985, all pilots licensed pursuant to this division, including other existing inland pilots who have applied for or been granted a license pursuant to Section 1141, other than pilots retiring not later than December 31, 1988, shall have proper federal endorsements allowing them to pilot on the high seas and on all waters of the Bays of San Francisco, San Pablo, and Suisun and the tributaries thereof, except for the Ports of Sacramento and Stockton.

SEC. 43. Section 1178 is added to the Harbors and Navigation Code, to read:

1178. Persons applying for a license on or after January 1, 1985, who have not previously served as bar or interior pilots on the Bays of San Francisco, San Pablo, and Suisun pursuant to a federal endorsement shall not receive a license unless they have proper federal endorsements allowing them to pilot on the high seas and all the waters of those bays pursuant to Section 1171.

SEC. 44. Section 1179 is added to the Harbors and Navigation Code, to read:

1179. Notwithstanding any other provision of this division, any shipping company which regularly employed its employees, or expressed its intent to the board to use its employees, for piloting vessels on the Bays of San Francisco, San Pablo, and Suisun, or their tributaries, on or before July 1, 1983, may employ and use its employees in that manner in lieu of pilots provided under this chapter. However, this use of employees as pilots on foreign flag vessels shall be limited to five vessel calls per year for those shipping companies that have only expressed their intent to use their employees in lieu of pilots. This limitation shall not apply to those shipping companies which regularly employed their employees for piloting vessels prior to July 1, 1983.

SEC. 45. Section 1190 of the Harbors and Navigation Code is amended to read:

1190. (a) Every vessel spoken inward or outward bound, shall pay the following rate of bar pilotage through the Golden Gate and into or out of the Bays of San Francisco, San Pablo, and Suisun:

(1) Seven dollars and thirty-five cents ($7.35) per draft foot of the vessel's deepest draft and fractions of a foot pro rata, and an additional charge of 22.50 mills ($0.02250) per high gross registered ton.

(2) A minimum charge for bar pilotage shall be six hundred dollars ($600) for each vessel piloted.

(3) The vessel's deepest draft shall be the maximum draft attained, on a stillwater basis, at any part of the vessel during the

course of such transit inward or outward.

(b) The rate specified in subdivision (a) shall apply only to a pilotage which passes through the Golden Gate to or from the high seas to or from a berth within an area bounded by the Southern Pacific Bridge to the north and Hunter's Point to the south. The rate for pilotage to or from the high seas to or from a point past the Southern Pacific Bridge or Hunter's Point shall include a movement fee in addition to the basic bar pilotage rate as specified by the board pursuant to Section 1191.

(c) The rate specified in paragraph (1) of subdivision (a) shall be increased by .5 mills ($0.0005) per high gross registered ton for each pilot licensed pursuant to Section 1141.

(d) The rate specified in paragraph (1) of subdivision (a) shall be decreased by .5 mills ($0.0005) per high gross registered ton for each net reduction in the number of pilots licensed under this division.

(e) The rate established in paragraph (1) of subdivision (a) and in subdivisions (c) and (d) shall be for a trip from the high seas to dock or from the dock to high seas. The rate specified in Section 1191 shall not be charged by pilots for docking and undocking vessels. This subdivision does not apply to the rates charged by inland pilots for their services.

(f) The board shall review all pilotage rates in effect as established under this division not later than June 30, 1985. The review shall be based on a dual system of accounts maintained by the pilots, which reflect fees charged to the industry for the first full six-month period after January 1, 1985, and costs which would have been borne by industry for pilotage services, including actual launch fees, for the same period, for the same service if this subdivision had not been operative.

(g) After conducting a hearing pursuant to Section 1202, but not later than October 1, 1985, the board shall, based on the review pursuant to subdivision (f), adjust pilotage rates as follows:

(1) If there is an increase in total pilotage cost to industry, as defined, based on the pilotage rates that were in effect on January 1, 1984, the board shall adjust the rates downward to a rate which will not result in increased cost to industry or decreased income per pilot after operating expenses.

(2) If there is a reduction of income per pilot after operating expenses, based on 1983 bar pilot income figures, the board shall adjust the rates upward to a rate which will not result in decreased income per pilot after operating expenses or increased cost to industry.

(3) If there are both increased pilotage costs to industry and a reduction in income per pilot after operating expenses, the board shall adjust rates so as to evenly distribute the industry cost and pilot losses between the industry and the pilots.

(h) In making the rate adjustments set forth in subdivision (g), if it does not reduce gross pilotage income, the board may include an adjustment in bases used in determining the rates paid by classes of

users of pilotage services so as to provide a fair and reasonable distribution of pilotage fees among those users.

SEC. 46. Section 1191 of the Harbors and Navigation Code, as added by Section 2 of Chapter 683 of the Statutes of 1980, is repealed.

SEC. 47. Section 1191 is added to the Harbors and Navigation Code, to read:

1191. (a) The board shall, pursuant to Chapter 6 (commencing with Section 1200), recommend that the Legislature, by statute, adopt a schedule of pilotage rates providing fair and reasonable return to pilots and inland pilots engaged in ship movements or special operations where rates for those movements or operations are not specified in Section 1190.

(b) Every vessel using pilots and inland pilots for ship movements or special operations which do not constitute bar pilotage shall pay the rate specified in the schedule of pilotage rates adopted by the Legislature.

(c) Until a schedule is adopted by the Legislature pursuant to subdivision (a), on and after January 1, 1985, the minimum rates charged by pilots or inland pilots for ship movements and internal operations shall be the schedule of ship pilot fees, Pacific Maritime Region, San Francisco Bay and tributaries, then in effect.

SEC. 48. Section 1192 of the Harbors and Navigation Code is amended to read:

1192. If a vessel, which is subject to the payment of pilotage, enters any port of the Bays of San Francisco, San Pablo, or Suisun solely by reason of being in distress or requiring care it shall pay one-half the full pilotage rates.

SEC. 49. Section 1193 of the Harbors and Navigation Code is amended to read:

1193. A vessel which is subject to the payment of pilotage shall pay one-half the full pilotage rates if it enters any port of the Bays of San Francisco, San Pablo, or Suisun for:

(a) Anchoring.

(b) Reporting or receiving orders.

(c) Taking on water, fuel for bunkers, or stores and other supplies for use on the vessel and which are not intended for transfer to and use on any other vessel. If, however, the vessel discharges or takes on any cargo or passengers, or if any water, fuel, stores, or other supplies taken on is transferred to and used on another vessel, the reduction does not apply.

SEC. 50. Chapter 6 (commencing with Section 1200) of Division 5 of the Harbors and Navigation Code is repealed.

SEC. 51. Chapter 6 (commencing with Section 1200) is added to Division 5 of the Harbors and Navigation Code, to read:

CHAPTER 6. PILOTAGE RATE RECOMMENDATIONS

1200. The board shall make recommendations to the Legislature on the rates for pilotage which should be established pursuant to

Sections 1190 and 1191.

1201. Any party directly affected by pilotage rates established under this chapter may petition the board for a public hearing on any of the matters set forth in Section 1200. Within 10 days from the filing of the petition the board shall call public hearings to be held not less than 30 nor more than 60 days of the date of call for the purpose of obtaining information and data relating to the issues raised in the petition. The board shall give notice of the hearings to all interested parties who have requested the notification. At the conclusion of the hearing or hearings, the board shall review and evaluate all evidence obtained and, within 120 days from the filing of the petition, shall submit to the Secretary of the Senate and the Chief Clerk of the Assembly a copy of its findings and recommendations for final determination, supported by a transcript of these proceedings of the board.

1202. Public hearings for the purpose of investigating pilotage rates shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and a full record shall be kept of all evidence offered.

1203. In preparing its recommendations to the Legislature with relationship to pilotage rates, the board may require an independent audit or audits by a public accountant selected by the board. The audits required by the board shall cover pilotage operations for those years which the board may specify. In preparing the recommendations, the board shall also give consideration to other relevant factors, including, but not limited to, the following:

(a) The costs to the pilots, individually or jointly, of providing pilot service as required.

(b) A net return to the pilot sufficient to attract and hold persons capable of performing this service with safety to the public and protection to the property of persons using the service; and the relationship of that income to any changes in cost-of-living indices.

(c) Pilotage rates charged for comparable services rendered in other ports and harbors in the United States.

(d) The methods of determining pilotage rates in other ports and harbors in the United States.

(e) Economic factors affecting the local shipping industry, including prospective increases or decreases in income and labor costs.

(f) Additional factors affecting income to pilots such as the volume of shipping traffic using pilotage, numbers of pilots available to perform services, income paid for comparable services, and other factors of related nature.

(g) Changes in, or additions to, navigational and safety equipment necessary to insure protection of persons, ships, and waterways.

SEC. 52. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and

Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 53. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

CHAPTER 1654

An act to amend Sections 2700, 2701, 2750, and 12986 of, to add Section 2529 to, and to repeal and add Section 2702 of, the Water Code, relating to water rights, and making an appropriation therefor.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 2529 is added to the Water Code, to read:

2529. (a) Within 60 days after the date by which claimants to rights to the water of the stream system are required to notify the board in writing of their intention to file proof of claim, the board shall prepare and file for record, in the office of the county recorder of each county in which any part of the stream system is situated, a notice setting forth all of the following facts:

(1) The order has been entered and the proceedings are pending.

(2) Information regarding the status of the proceedings may be obtained from the board.

(3) The proceedings will result in a determination of the rights to water of the stream system.

(4) Any claimant who fails to appear and submit proof of his or her claim as provided in this chapter shall be held to have forfeited all rights to water previously claimed by him or her on the stream system, other than as provided in the decree, unless entitled to relief under the laws of this state.

(5) At the conclusion of the proceedings, the superior court will enter a decree determining the water rights appurtenant to each parcel identified in the notice, including the specific parcel against which this notice appears, and the decree may accord the claimant for that parcel water rights which are different from those he or she has claimed.

(b) The notice shall identify the current owners of each parcel that appears to be riparian to the stream system or to which water is diverted from the stream, and shall be recorded in a manner so that

anyone researching the title of a parcel will find the notice.

(c) If the board subsequently identifies an additional parcel or parcels which appear to be riparian to the stream system or to which water is diverted from the stream, the board shall prepare and file for record a supplementary notice identifying the current owners of the additional parcels. The supplementary notice shall be recorded in the same manner as the original notice.

SEC. 2. Section 2700 of the Water Code is amended to read:

2700. As soon as practicable after the hearing of objections or the expiration of the time for filing objections if no objections are filed, the board shall adopt an order determining and establishing the several rights to the water of the stream system.

SEC. 3. Section 2701 of the Water Code is amended to read:

2701. A notice of adoption of the order of determination and a copy of the order shall be sent by registered mail to each claimant and to each person whose rights are determined in the order.

SEC. 4. Section 2702 of the Water Code is repealed.

SEC. 5. Section 2702 is added to the Water Code, to read:

2702. (a) The board may order a reconsideration of all or part of an order of determination on the board's own motion or on petition of any party affected by the order. The petition shall be filed within 30 days after the notice required by Section 2701 is sent. The authority of the board to order a reconsideration on its own motion shall expire 30 days after the board has adopted the order. The board shall order or deny reconsideration on a petition for reconsideration within 60 days after the petition is filed.

(b) The order of determination may be reconsidered by the board on all the pertinent parts of the record and any arguments as may be permitted, or a further hearing may be held, upon notice to all affected parties, for the purpose of receiving additional evidence that the board may, for cause, allow. The order on reconsideration has the same force and effect as an original order.

SEC. 6. Section 2750 of the Water Code is amended to read:

2750. As soon as practicable after adoption of the order of determination, issuance of an order on reconsideration, or issuance of an order denying reconsideration, whichever is later, a certified copy of the order, together with the original evidence and transcript of testimony filed with or taken before the board and certified by it, shall be filed with the clerk of the superior court of the county in which the stream system, or some part thereof, is situated.

SEC. 7. Section 12986 of the Water Code is amended to read:

12986. It is the intention of the Legislature to reimburse from the General Fund an eligible local agency pursuant to this part for costs incurred in any year for the maintenance or improvement of nonproject levees as follows:

(a) No costs incurred shall be reimbursed if the entire cost incurred per mile of levee is one thousand dollars ($1,000) or less.

(b) Fifty percent of any costs incurred in excess of one thousand dollars ($1,000) per mile of levee shall be reimbursed.

(c) The maximum total reimbursement from the General Fund shall not exceed two million dollars ($2,000,000) annually.

SEC. 8. The sum of two million dollars ($2,000,000) is hereby appropriated from the General Fund to the Department of Water Resources for maintenance or improvement of nonproject levees pursuant to Part 9 (commencing with Section 12980) of Division 6 of the Water Code. An amount not to exceed 3 percent of this appropriation may be used by the department for administrative costs.

CHAPTER 1655

An act to add Article 1.7 (commencing with Section 1215) to Chapter 1 of Part 2 of Division 2 of the Water Code, relating to water.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. The Legislature finds and declares as follows:

(a) The original proponents of the Central Valley Project and the State Water Project stated that the watersheds in which water that those projects develop originates (areas of origin) would not be deprived of needed water in order to supply water to other regions.

(b) Existing state law specifies that a watershed or area wherein water originates, or an area immediately adjacent thereto which can conveniently be supplied with water therefrom, shall not be deprived directly or indirectly by the federal Central Valley Project and the State Water Project of the prior right to all the water reasonably required to supply the beneficial needs of the watershed or area, or any of the inhabitants or property owners therein, but the United States has challenged the applicability of these state laws to the federal Central Valley Project.

(c) Protection of the areas of origin by all federal, state, and local agencies in California is essential to the public peace and welfare and is essential in order for the state to be able to develop water resources in areas of surplus for delivery to areas of shortage.

(d) The state must demand and require that the area of origin protections be complied with to the fullest extent by all parties within each protected area as defined in Section 1215.5 of the Water Code.

SEC. 2. Article 1.7 (commencing with Section 1215) is added to Chapter 1 of Part 2 of Division 2 of the Water Code, to read:

Article 1.7. Areas of Origin

1215. This article shall only apply to a water supplier exporting or intending to export water for use outside a protected area pursuant to applications to appropriate surface water filed, or groundwater appropriations initiated, after January 1, 1985, that are not subject to Section 11460.

1215.5. (a) For the purposes of this article, "protected area", means all of lands which normally drain to the ocean, to a hydraulic sink, or to another state within any of the following, and only the following, river systems:

(1) The Sacramento River System.

(2) The Mokelumne River System.

(3) The Calaveras River System.

(4) The San Joaquin River System.

(5) The Mono Lake System.

(6) The combined Truckee, Walker, and Carson River Systems.

(7) The combined river systems which drain to the ocean from and including the Russian River System northward to the California-Oregon border.

(b) The confluences of the Sacramento, Mokelumne, Calaveras, and San Joaquin River Systems are within the delta, as defined in Section 12220, and the delta shall be considered to be within each of these protected areas.

1215.6. For the purposes of this article, "water user or users" within a protected area means an appropriator or appropriators, a riparian user or users, or a groundwater user or users of water on land owned or controlled by them within a protected area.

1216. A protected area shall not be deprived directly or indirectly of the prior right to all the water reasonably required to adequately supply the beneficial needs of the protected area, or any of the inhabitants or property owners therein, by a water supplier exporting or intending to export water for use outside a protected area pursuant to applications to appropriate surface water filed, or groundwater appropriations initiated, after January 1, 1985, that are not subject to Section 11460.

1217. (a) In addition to the right to obtain a water right which would have priority over the rights of an exporter, water users in a protected area shall have the right to purchase, for adequate compensation, water made available by the construction of any works by a water supplier exporting or intending to export water for use outside the protected area. Nothing in this section shall be construed to authorize export of water from a protected area to which users within the protected area are otherwise entitled, nor to require users within a protected area to pay for water to which they are otherwise entitled.

(b) At the request of a water user or users within a protected area, a water supplier exporting or intending to export water for use outside the protected area who is subject to Section 1216 shall meet

and negotiate in good faith for the purpose of entering into contracts for the purchase of water as provided in subdivision (a).

(c) Any water user or users in a protected area may bring an action in the superior court to require compliance with the duty to meet and negotiate in good faith pursuant to this section. The court may issue a temporary restraining order, preliminary injunction, or permanent injunction, as appropriate, to secure compliance with this section.

(d) The meetings and negotiations required by this section may occur between the water supplier exporting water for use outside a protected area and any water user or users in a protected area, as determined appropriate by the parties. The meetings and negotiations shall not be subject to the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code or Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code.

(e) Nothing in this section shall be construed as a limitation on the authority of the board to establish water quality standards or to subject water right entitlements to terms and conditions for the protection of reasonable and beneficial uses consistent with the provisions of Section 2 of Article X of the California Constitution.

1218. Upon the request of an applicant for a permit to appropriate water for use outside a protected area, a county of origin shall cooperate with the applicant in estimating the amount of water that may be purchased within the county pursuant to subdivision (a) of Section 1217 and that may be developed or used within the county impacting the proposed project, including an estimated time schedule.

The purpose of this section is to assist the applicant in planning the export project and to assist the counties of origin in their water planning.

1219. A water supplier exporting or intending to export water outside a protected area, or a water user or users within a protected area, may declare that an impasse has been reached between the parties in negotiations over matters within the scope of negotiations specified in Section 1217 and may request the director to appoint a panel of five disinterested persons from whom the parties shall select, by a process of elimination, the mediator. After drawing lots to determine the order, the parties shall each, in turn, eliminate a name from the panel until there is only one person remaining on the panel, who shall be the mediator. The mediator shall meet forthwith with the parties or their representatives, either jointly or separately, and shall take such other steps as the mediator may deem appropriate in order to persuade the parties to resolve their differences and effect a mutually acceptable agreement. The services of the mediator, including any per diem fees, and actual and necessary travel and subsistence expenses, shall be provided by the parties. Nothing in this section shall be construed to prevent the

parties from mutually agreeing upon their own mediation procedure, and in the event of such agreement, the director shall not appoint a mediator.

1219.5. The provisions of this article shall not require any water supplier exporting or intending to export water for use outside a protected area to furnish to any water user or users in a protected area claiming rights under this article, without adequate compensation therefor, any water made available for domestic, municipal, industrial, or agricultural uses by the construction of any works by the water exporter.

1220. (a) No groundwater shall be pumped for export from within the combined Sacramento and Delta-Central Sierra Basins, as defined in Department of Water Resources' Bulletin 160-74, unless the pumping is in compliance with a groundwater management plan that is adopted by ordinance pursuant to subdivision (b) by the county board of supervisors, in full consultation with affected water districts, and that is subsequently approved by a vote in the counties or portions of counties that overlie the groundwater basin, except that water that has seeped into the underground from any reservoir, afterbay, or other facility of an export project may be returned to the water supply of the export project. For the purposes of this section, the county board of supervisors may designate a county water agency to act on its behalf if the directors of the county water agency are publicly elected and the county water agency encompasses the entire county. The county board of supervisors may revoke that designation by resolution at any time.

(b) Notwithstanding any other provision of law, a county board of supervisors whose county contains part of the combined Sacramento and Delta-Central Sierra Basins may adopt groundwater management plans to implement the purposes of this section.

(c) A county board of supervisors shall not exercise the powers authorized by this section within the boundaries of another local agency supplying water to that area without the prior agreement of the governing body of that other local agency.

1221. This article shall not be construed to authorize the board to regulate groundwater in any manner.

1222. Nothing in this article shall be deemed to diminish the rights and protections to watersheds of origin contained in existing law including, but not limited to, Part 4.5 (commencing with Section 12200) of Division 6.

CHAPTER 1656

An act to add Article 9.2 (commencing with Section 11255) to Chapter 2 of Part 3 of Division 6 of the Water Code, relating to water resources.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Article 9.2 (commencing with Section 11255) is added to Chapter 2 of Part 3 of Division 6 of the Water Code, to read:

Article 9.2. Los Banos Grandes Reservoir

11255. Pursuant to the authority contained in Section 12931, the Legislature hereby authorizes, as a part of the State Water Resources Development System, the Los Banos Grandes Reservoir to be located south of the delta and adjacent to the San Luis Reservoir for the purposes of developing additional water supply, providing improved water quality, and providing operational flexibility for fish and wildlife preservation and enhancement in accordance with the Davis-Dolwig Act (Chapter 10 (commencing with Section 11900)). The Los Banos Grandes Reservoir may be constructed in one or more stages, as determined by the department.

11256. In conducting the feasibility investigations for the Los Banos Grandes Reservoir, the department shall consider the impact of the project on drainage and groundwater lands in the adjacent farm areas, including making a study of the occurrence and distribution of selenium in the drain waters.

11257. The department may use Central Valley Project revenue bonds to finance, all or in part, the construction of the Los Banos Grandes Reservoir.

CHAPTER 1657

An act to add Section 6254.3 to the Government Code, relating to public records.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 6254.3 is added to the Government Code, to read:

6254.3. (a) The home addresses and home telephone numbers of state employees shall not be deemed to be public records and shall not be open to public inspection, except that disclosure of that information may be made as follows:

(1) To an agent, or a family member of the individual to whom the information pertains.

(2) To an officer or employee of another state agency when necessary for the performance of its official duties.

(3) To an employee organization pursuant to regulations adopted by the Public Employment Relations Board, except that the home addresses and home telephone numbers of state employees performing law enforcement-related functions shall not be disclosed.

(4) To an agent or employee of a health benefit plan providing health services or administering claims for health services to state employees and their enrolled dependents, for the purpose of providing the health services or administering claims for employees and their enrolled dependents.

(b) Upon written request of any employee, a state agency shall not disclose the employee's home address or home telephone number pursuant to paragraph (3) of subdivision (a) and a state agency shall remove the employee's home address and home telephone number from any mailing list maintained by the agency, except if the list is used exclusively by the agency to contact the employee.

SEC. 2. It is the intent of the Legislature that this act shall not apply to any court action filed prior to April 1, 1984.

SEC. 3. Nothing herein shall be deemed to affect existing rights under the provisions of Sections 1798.3 and 1798.60 of the Civil Code.

SEC. 4. This act shall not be construed to limit or affect Section 1808 of the Vehicle Code.

CHAPTER 1658

An act to repeal and add Chapter 4 (commencing with Section 4330) of Part 2 of Division 4 of the Welfare and Institutions Code, relating to mental health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Chapter 4 (commencing with Section 4330) of Part 2 of Division 4 of the Welfare and Institutions Code is repealed.

SEC. 2. Chapter 4 (commencing with Section 4330) is added to Part 2 of Division 4 of the Welfare and Institutions Code, to read:

CHAPTER 4. SERVICES FOR PERSONS WITH BRAIN DAMAGE OR DEGENERATIVE BRAIN DISEASE

4330. The Legislature finds all of the following:

(a) That state public policy discriminates against adults with brain damage or degenerative brain disease, such as Alzheimer's disease, hereinafter called "brain impairments."

(b) That the Legislature has declared state public policy and

accepted responsibility to ensure that persons under the age of 18 years who are "developmentally disabled" pursuant to Division 4.5 (commencing with Section 4500), receive services necessary to meet their needs, which are often similar to those of persons who suffer from brain impairments.

(c) That persons over the age of 18 who sustain brain impairment have a variety of program and service needs for which there is no clearly defined, ultimate responsibility vested in any single state agency and for which there are currently a number of different programs attempting to meet their needs.

(d) That the lack of clearly defined, ultimate responsibility has resulted in severe financial liability and physical and mental strain on brain-impaired persons, their families, and caregivers.

(e) That terminology and nomenclature used to describe brain impairments are varied and confusing, in part because of different medical diagnoses and professional opinions, as well as differences in terminology used by the various funding sources for programs and services. Uniformity is required in order to ensure that appropriate programs and services are available throughout the state to serve these persons.

(f) That the term "brain damage" covers a wide range of organic and neurological disorders, and that these disorders, as identified below, are not necessarily to be construed as mental illnesses. These disorders include, but are not limited to, all of the following:

(1) Progressive, degenerative, and dementing illnesses, including, but not limited to, presenile and senile dementias, Alzheimer's disease, multiinfarct disease, Pick's disease, and Kreutzfeldt-Jakob's disease.

(2) Degenerative diseases of the central nervous system that can lead to dementia or severe brain impairment, including, but not limited to, epilepsy, multiple sclerosis, Parkinson's disease, amyotrophic lateral sclerosis (ALS), and hereditary diseases such as Huntington's disease.

(3) Permanent damage caused by cerebrovascular accidents more commonly referred to as "strokes," including, but not limited to, cerebral hemorrhage, aneurysm, and embolism.

(4) Posttraumatic, postanoxic, and postinfectious damage caused by incidents, including, but not limited to, coma, accidental skull and closed head injuries, loss of oxygen (anoxia), and infections such as encephalitis, herpes simplex, and tuberculosis.

(5) Permanent brain damage or temporary or progressive dementia as a result of tumors (neoplasm), hydrocephalus, abscesses, seizures, substance toxicity, and other disorders.

(g) That brain damage frequently results in functional impairments that adversely affect personality, behavior, and ability to perform daily activities. These impairments cause dependency on others for care and decisionmaking. The manifestations of brain damage include impairments of memory, cognitive ability, orientation, judgment, emotional response, and social inhibition.

Brain damage can strike anyone regardless of age, race, sex, occupation, or economic status.

(h) That Family Survival Project for Brain-Damaged Adults of San Francisco, a three-year pilot project established pursuant to former Chapter 4 (commencing with Section 4330), has demonstrated that the most successful, cost-effective service model is one which allows a nonprofit community agency to provide a full array of support services to families that have a member who suffers from a brain impairment. This agency provides direct services, coordinates existing resources, and assists in the development of new programs and services on a regional basis.

(i) That respite care services provide a combination of time-limited, in-home, and out-of-home services which significantly decrease the stress of family members and increase their ability to maintain a brain-impaired person at home at less cost than other alternatives. This ability is further increased when complemented by case planning, care training, and other support services for family members.

(j) That, since 1977, the State Department of Mental Health has attempted to identify service gaps and determine a cost-effective, feasible approach to funding and providing services to brain-damaged adults, their families, and caregivers. That department has the experience of offering more in the continuum of programs and services than any other state agency and is willing to continue in the lead state agency capacity.

(k) That providing services to brain-impaired adults, and to their families and caregivers, requires the coordinated services of many state departments and community agencies to ensure that no gaps occur in communication, in the availability of programs, or in the provision of services. Although the services may include mental health interventions, they cannot be met solely by services of the State Department of Mental Health.

4331. As used in this chapter:

(a) "Brain damage," "degenerative brain diseases," and "brain impairment" mean significant destruction of brain tissue with resultant loss of brain function. Examples of causes of the impairments are Alzheimer's disease, stroke, traumatic brain injury, and other impairments described in subdivision (f) of Section 4330.

(b) "Brain-impaired adult" means a person whose brain impairment has occurred after the age of 18.

(c) "Respite care" means time-limited substitute care or supervision in support of the caregiver for the purposes of providing relief from the stresses of constant care provision and so as to enable the caregiver to pursue a normal routine and responsibilities. Respite care may be provided in the home or in an out-of-home setting, such as day care centers or short-term placements in inpatient facilities.

4332. The director shall administer this chapter and establish standards and procedures, as the director deems necessary in carrying out the provisions of this chapter. The standards and

procedures are not required to be adopted as regulations pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

4333. The director shall do both of the following:

(a) Contract with a nonprofit community agency meeting the requirements of this chapter to act as the Statewide Resources Consultant, to be selected through a bid procedure.

(b) With the advice of the Statewide Resources Consultant and within four years from the effective date of this chapter, contract with nonprofit community resource agencies, selected in a manner determined by the director, to establish regionally based resource centers in order to ensure the existence of an array of appropriate programs and services for brain-impaired adults. The resource center shall place a high priority on utilizing community resources in creating opportunities for families to maintain a brain-impaired adult at home when possible and in other community-based alternatives when necessary.

4334. The Statewide Resources Consultant shall do all of the following:

(a) Serve as the centralized information and technical assistance clearinghouse for brain-impaired adults, their families, caregivers, service professionals and agencies, and volunteer organizations.

(b) Work closely and coordinate with organizations serving brain-impaired adults, their families, and caregivers in order to ensure, consistent with requirements for quality of services as may be established by the director, that the greatest number of persons are served and that the optimal number of organizations participate.

(c) Develop training packages which are appropriate for a variety of persons, including, but not limited to, all of the following:

(1) Families.

(2) Caregivers and service professionals involved with brain-impaired adults.

(3) Advocacy and self-help family and caregiver support organizations.

(4) Educational institutions.

(d) Provide service and program development consultation to resource centers and to identify funding sources which are available.

(e) Assist the appropriate state agencies in identifying and securing increased federal financial participation and third party reimbursement, including, but not limited to, Title XVIII (42 U.S.C. Sec. 1395 et seq.) and Title XIX (42 U.S.C. Sec. 1396 et seq.) of the federal Social Security Act.

(f) Conduct public social policy research based upon the recommendations of the Director of Mental Health.

(g) Assist the director, as the director may require, in conducting directly, or through contract, research in brain damage epidemiology and data collection, and in developing a uniform terminology and nomenclature.

(h) Assist the director in establishing criteria for, and in selecting resource centers and in designing a methodology for, the consistent assessment of resources and needs within the geographic areas to be serviced by the resource centers.

(i) Conduct conferences, as required by the director, for families, caregivers, service providers, advocacy organizations, and educational institutions in order to enhance the quality and availability of high-quality, low-cost care and treatment of brain-impaired adults.

4335. In choosing an appropriate nonprofit community agency to act as the Statewide Resources Consultant, the director shall give priority to an agency which meets both of the following:

(a) An agency which has a proven record of experience in providing information, technical assistance and direct services to adults with all types of brain impairments, their families, and caregivers.

(b) An agency which includes family members and caregivers of brain-impaired adults on its board of directors.

4336. (a) The Statewide Resources Consultant shall submit progress reports on its activities as required by the director. These reports shall include, but not be limited to, a summary and evaluation of the activities of the resource centers. Client, caregiver, service, and cost data shall be provided for each operating resource center.

(b) The department, in consultation with the Statewide Resources Consultant, shall report to the Legislature by annually on the effectiveness of the resource centers. The report shall be submitted within three months after the end of each calendar year. The evaluation shall include, but not be limited to, all of the following:

(1) A comparative assessment of the costs and effectiveness of each type of service or combinations of services provided.

(2) An assessment of the nature and extent of the demand for services which provide respite, and an evaluation of their success in meeting this demand.

(3) An analysis of the effectiveness of the program in deterring the institutionalization of brain-impaired adults, allowing caregivers to maintain a normal routine, and promoting the continuance of quality care for brain-impaired adults.

(4) Recommendations for ensuring that unmet needs of brain-impaired persons and their families are identified and addressed with appropriate programs and services.

4337. The resource centers shall serve all of the following functions:

(a) Provide directly or assist families in securing information, advice, and referral services, legal services and financial consultation, planning and problem-solving consultation, family support services, and respite care services, as specified in Section 4338.

(b) Provide centralized access to information about, and referrals to, local, state, and federal services and programs in order to assure

a comprehensive approach for brain-impaired adults, their families, and caregivers. Nothing in this chapter shall prohibit access to services through other organizations which provide similar programs and services to brain-impaired adults and their families, nor shall other organizations be prevented from providing these programs and services.

(c) Assist in the identification and documentation of service needs and the development of necessary programs and services to meet the needs of brain-impaired adults in the geographic area.

(d) Cooperate with the Statewide Resources Consultant and the Director of Mental Health in any activities which they deem necessary for the proper implementation of this chapter.

(e) Work closely and coordinate with organizations serving brain-impaired adults, their families, and caregivers in order to ensure, consistent with requirements for quality of services as may be established by the director, that the greatest number of persons are served and that the optimal number of organizations participate.

4338. Agencies designated as resource centers by the director after consultation with the Statewide Resources Consultant shall include in their governing or advisory boards, or both, as required by the director, persons who are representative of the ethnic and socioeconomic character of the area served and the client groups served in the geographic area.

Criteria to be used in selecting resource centers shall include, but not be limited to, the following:

(a) Fiscal stability and sound financial management, including the capability of successful fundraising.

(b) Ability to obtain community support for designation as a resource center with the region recommended by the director.

(c) Demonstrated ability to carry out the functions specified in Section 4337, particularly in delivering necessary programs and services to brain-impaired adults as defined in subdivision (c) of Section 4330.

4338.5. Resource centers shall carry out the functions specified in Section 4337 through the administration and provision of programs and services that reflect the most progressive care and treatment alternatives available for brain-impaired adults, their families, and caregivers. These programs and services may be provided directly or through the establishment of subcontracts as specified in their contract and within the limitations imposed by budget appropriations. The department shall make efforts to achieve a goal that not less than 90 percent of the funds appropriated through contracts with resource centers shall be utilized for direct services, including, but not limited to, the following:

(a) Information, advice, and referral and family support services, including, but not limited to, all of the following:

(1) Information and counseling about diagnostic procedures and resources.

(2) Long-term care planning and consultation.

(3) Legal and financial resources, consultation, and representation.

(4) Mental health interventions.

(5) Caregiving techniques.

(b) Respite care services through the flexible and creative use of existing local resources, including, but not limited to, all of the following:

(1) In-home care.

(2) Adult day health and social day care services.

(3) Foster and group care.

(4) Temporary placement in a community or health facility.

(5) Transportation.

(c) Training and education programs for brain-impaired adults, their family members, caregivers, and service providers that will lead to the high-quality, low-cost care and treatment of service clients.

4339. The director shall establish criteria for client eligibility, including financial liability, pursuant to Section 4339.5. However, persons eligible for services provided by regional centers or the State Department of Developmental Services are not eligible for services provided under this chapter. Income shall not be the sole basis for client eligibility. The director shall assume responsibility for the coordination of existing funds and services for brain-impaired adults, and for the purchase of respite care services, as defined in subdivision (c) of Section 4331 and described in subdivision (b) of Section 4336, with other departments that may serve brain-impaired adults, including the Department of Rehabilitation, the State Department of Health Services, the State Department of Social Services, the State Department of Developmental Services, the Department of Aging, and the State Department of Alcohol and Drug Abuse.

4339.5. Persons receiving services pursuant to this chapter may be required to contribute to the cost of services depending upon their ability to pay, but not to exceed the actual cost thereof. The criteria for determining client contributions which may be paid to the resource center under this chapter and standards for their utilization by the resource center in developing new programs and services shall be determined by the director after consultation with the Statewide Resources Consultant.

4339.6. In considering total service funds available for the project, the director shall utilize funding available from appropriate state departments, including, but not limited to: the State Department of Health Services, the State Department of Social Services, the Department of Rehabilitation, the Department of Aging, and the State Department of Alcohol and Drug Abuse. The director in conjunction with the Statewide Resources Consultant shall coordinate his or her activities with the implementation of the Torres-Felando Long-Term Care Reform Act (Chapter 1435, Statutes of 1982) in order to further the goal of obtaining comprehensive, coordinated public policy and to maximize the

availability of funding for programs and services for persons with brain impairments.

SEC. 3. The sum of one million seven hundred thousand dollars ($1,700,000) is hereby appropriated for the 1984–85 fiscal year from the General Fund to the State Department of Mental Health for the purposes of this act. Funding in subsequent years of programs under this act is subject to the annual appropriation of funds in the Budget Act.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that certain greatly needed services to brain-impaired adults may be provided at the earliest possible time, it is essential that this act go into immediate effect.

CHAPTER 1659

An act to amend Sections 40041 and 40042 of, to add Section 40041.5 to, and to add Article 10.5 (commencing with Section 35295) to Chapter 2 of Part 21 of, the Education Code, relating to emergency procedures.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Article 10.5 (commencing with Section 35295) is added to Chapter 2 of Part 21 of the Education Code, to read:

Article 10.5. Earthquake Emergency Procedures

35295. The Legislature finds and declares the following:

(a) Because of the generally acknowledged fact that California will experience moderate to severe earthquakes in the foreseeable future, increased efforts to reduce earthquake hazards should be encouraged and supported.

(b) In order to minimize loss of life and disruption, it is necessary for all public or private elementary schools and high schools to develop school disaster plans and specifically an earthquake emergency procedure system so that students and staff will act instinctively and correctly when an earthquake disaster strikes.

(c) It is therefore the intent of the Legislature in enacting this article to authorize the establishment of earthquake emergency procedure systems in kindergarten and grades 1 through 12 in all the public or private schools in California.

35296. The governing board of each private school and school

district and the county superintendent of schools of each county shall establish an earthquake emergency procedure system in every public or private school building under its jurisdiction having an occupant capacity of 50 or more students or more than one classroom. Governing boards and county superintendents may work with the Office of Emergency Services and the Seismic Safety Commission to develop and establish the earthquake emergency procedure systems.

35297. The earthquake emergency procedure system shall include, but not be limited to, all of the following:

(a) A school building disaster plan, ready for implementation at any time, for maintaining the safety and care of students and staffs.

(b) A drop procedure. As used in this article, "drop procedure" means an activity whereby each student and staff member takes cover under a table or desk, dropping to his or her knees, with the head protected by the arms, and the back to the windows. A drop procedure practice shall be held at least once each school quarter in elementary schools and at least once a semester in secondary schools.

(c) Protective measures to be taken before, during, and following an earthquake.

(d) A program to ensure that the students and staff are aware of, and properly trained in, the earthquake emergency procedure system.

SEC. 2. Section 40041 of the Education Code is amended to read:

40041. (a) There is a civic center at each and every public school facility and grounds within the state where the citizens, parent-teachers' associations, camp fire girls, boy scout troops, farmers' organizations, school-community advisory councils, senior citizens' organizations, clubs, and associations formed for recreational, educational, political, economic, artistic, or moral activities of the public school districts may engage in supervised recreational activities, and where they may meet and discuss, from time to time, as they may desire, any subjects and questions which in their judgment pertain to the educational, political, economic, artistic, and moral interests of the citizens of the communities in which they reside.

(b) The governing board of any school district may grant the use of school facilities or grounds as a civic center upon the terms and conditions the board deems proper, subject to the limitations, requirements, and restrictions set forth in this article, for any of the following purposes:

(1) Public, literary, scientific, recreational, educational, or public agency meetings.

(2) The discussion of matters of general or public interest.

(3) The conduct of religious services for temporary periods by any church or religious organization which has no suitable meeting place for the conduct of the services, provided the governing board charges the church or religious organization using the school facilities or grounds a fee as specified in subdivision (c) of Section

40043.

(4) Child care or day care programs to provide supervision and activities for children of preschool and elementary school age.

(5) The administration of examinations for the selection of personnel or the instruction of precinct board members by public agencies.

(6) Supervised recreational activities.

(7) Other purposes deemed appropriate by the governing board.

SEC. 3. Section 40041.5 is added to the Education Code, to read:

40041.5. Notwithstanding Section 40043, the governing board of any school district shall grant the use of school buildings, grounds, and equipment to public agencies, including the American Red Cross, for mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare. The governing board shall cooperate with these agencies in furnishing and maintaining such services as the governing board may deem necessary to meet the needs of the community.

SEC. 4. Section 40042 of the Education Code is amended to read:

40042. The management, direction, and control of school facilities under this article is vested in the governing board of the school district which shall promulgate all rules and regulations necessary to provide, at a minimum, for the following:

(1) Aid, assistance, and encouragement to any of the activities authorized in Sections 40041 and 40041.5.

(2) Preservation of order in school facilities and on school grounds, and protection of school facilities and school grounds, including, if the governing board deems necessary, appointment of a person who shall have charge of the school facilities and grounds for purposes of their preservation and protection.

(3) That the use of school facilities or grounds is not inconsistent with the use of the school facilities or grounds for school purposes or interferes with the regular conduct of schoolwork.

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

SEC. 6. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1660

An act to add Chapter 13 (commencing with Section 18985) to Part 6 of Division 9 of the Welfare and Institutions Code, relating to child abuse.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Chapter 13 (commencing with Section 18985) is added to Part 6 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 13. COUNSELING FOR CHILD ABUSE OR SEXUAL MOLESTATION

18985. The Office of Criminal Justice Planning shall establish a pilot project for a period of two years in not more that three counties. The pilot projects shall test a program to provide treatment to child sexual abuse perpetrators, including intrafamilial and pedophiliac abusers, and including abusers who are incarcerated, as well as those who are not. The office shall designate the pilot project counties from among those counties that wish to participate. The office shall give priority to selection of at least two of the three pilot projects in counties where an existing project provides services to sexually abused children or their victims and where the proposed pilot project is an expansion of, and integrated with, existing services.

These counties shall provide all of the following information to the Office of Criminal Justice Planning:

(a) Identification of sexual abuse perpetrator treatment and victim services as a need in the county's child abuse services plan developed pursuant to Section 18962.

(b) Evidence in the application to provide service under this chapter that county mental health, welfare department, district attorney, juvenile court, superior court, municipal court, probation department, and private child welfare service agencies are participating in and coordinating case referral, case management, and service delivery to the target population.

(c) Evidence as to how incest offender treatment will be integrated with victim treatment.

Nothing in this section prohibits the use by district attorneys of counseling and other treatment programs as a diversion from prosecution. In pilot counties, diversion services shall be integrated with the services provided under this chapter.

18985.1. The provisions of this chapter shall be applicable in the designated counties for the duration of the pilot project.

18985.2. In any case in which the defendant has been convicted

in a pilot project county of violating Section 261, 264.1, 285, 286, 288, 288a, or 289 of the Penal Code, and the victim is a person who was under 18 years of age at the time the offense was committed, the court shall, in addition to any other punishment or confinement that may be imposed, require counseling of the convicted person pursuant to Section 18985.3, when the person is confined or placed on probation within the county.

18985.3. In a pilot project county, the county mental health department shall do both of the following:

(a) Assign a counselor to the convicted person described in Section 18985.2. The counselor shall be qualified, as determined by the county mental health department, in carnal abuse or sexual molestation counseling, as appropriate.

(b) Determine and collect from the convicted person a fee for the counseling, according to ability to pay, but not exceeding actual cost.

18985.4. The state shall reimburse each pilot project county less any fees received pursuant to subdivision (b) of Section 18985.3 for any costs it incurs in conducting the pilot project under this chapter.

18985.5. In order that the Legislature may determine the cost and potential benefits of the counseling programs authorized by this chapter, the Office of Criminal Justice Planning and the county mental health department in each participating county shall each submit written reports to the Legislature within six months of completion of any of the pilot projects authorized by this chapter. The reports shall detail all of the following information:

(a) The number of defendants who participated in the counseling programs during the pilot project.

(b) The cost of the pilot project, including data concerning the amount of the cost recovered from participants in the counseling programs.

(c) The nature of the treatment provided to participants in the counseling programs.

(d) The results of the treatment provided to participants in the counseling programs, including data concerning recidivism by participants, other criminal offenses committed by participants, and failures to participate in the counseling programs.

(e) The results of combining counseling services to intrafamilial and pedophiliac child sexual abusers.

18985.6. To the extent funds are appropriated in the 1985–86 Budget Act, the Office of Criminal Justice Planning shall award project funds to three counties who meet the criteria set forth in Section 18985. Pilot counties shall utilize each of the following:

(a) Third-party payments, where appropriate.

(b) Defendant fees, where ordered by the court.

(c) Existing counseling treatment and education services, where appropriate.

(d) Project funds to provide case management for each defendant and to purchase appropriate services where subdivisions (a), (b) and (d) are not applicable.

CHAPTER 1661

An act to amend Sections 4800 and 4801 of, and to add Section 4800.3 to, the Civil Code, relating to family law.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 4800 of the Civil Code is amended to read:

4800. (a) Except upon the written agreement of the parties, or on oral stipulation of the parties in open court, the court shall, either in its judgment of dissolution of the marriage, in its judgment decreeing the legal separation of the parties, or at a later time if it expressly reserves jurisdiction to make such a property division, divide the community property and the quasi-community property of the parties equally. For purposes of making such a division, the court shall value the assets and liabilities as near as practicable to the time of trial, except that, upon 30 days' notice by the moving party to the other party, the court for good cause shown may value all or any portion of the assets and liabilities at a date after separation and prior to trial to accomplish an equal division of the community property and the quasi-community property of the parties in an equitable manner.

(b) Notwithstanding subdivision (a), the court may divide the community property and quasi-community property of the parties as follows:

(1) Where economic circumstances warrant, the court may award any asset to one party on such conditions as it deems proper to effect a substantially equal division of the property.

(2) As an additional award or offset against existing property, the court may award, from a party's share, any sum it determines to have been deliberately misappropriated by that party to the exclusion of the community property or quasi-community property interest of the other party.

(3) If the net value of the community property and quasi-community property is less than five thousand dollars ($5,000) and one party cannot be located through the exercise of reasonable diligence, the court may award all such property to the other party on such conditions as it deems proper in its judgment decreeing the dissolution of the marriage or in its judgment decreeing the legal separation of the parties.

(c) Notwithstanding subdivision (a), community property personal injury damages shall be assigned to the party who suffered the injuries unless the court, after taking into account the economic condition and needs of each party, the time that has elapsed since the recovery of the damages or the accrual of the cause of action, and all other facts of the case, determines that the interests of justice require

another disposition. In such a case, the community property personal injury damages shall be assigned to the respective parties in such proportions as the court determines to be just, except that at least one-half of the damages shall be assigned to the party who suffered the injuries. As used in this subdivision, "community property personal injury damages" means all money or other property received or to be received by a person in satisfaction of a judgment for damages for his or her personal injuries or pursuant to an agreement for the settlement or compromise of a claim for the damages, if the cause of action for the damages arose during the marriage but is not separate property as defined in Section 5126, unless the money or other property has been commingled with other community property.

(d) The court may make such orders as it deems necessary to carry out the purposes of this section.

SEC. 1.5. Section 4800 of the Civil Code is amended to read:

4800. (a) Except upon the written agreement of the parties, or on oral stipulation of the parties in open court, the court shall, either in its judgment of dissolution of the marriage, in its judgment decreeing the legal separation of the parties, or at a later time if it expressly reserves jurisdiction to make such a property division, divide the community property and the quasi-community property of the parties equally. For purposes of making this division, the court shall value the assets and liabilities as near as practicable to the time of trial, except that, upon 30 days' notice by the moving party to the other party, the court for good cause shown may value all or any portion of the assets and liabilities at a date after separation and prior to trial to accomplish an equal division of the community property and the quasi-community property of the parties in an equitable manner.

(b) Notwithstanding subdivision (a), the court may divide the community property and quasi-community property of the parties as follows:

(1) Where economic circumstances warrant, the court may award any asset to one party on such conditions as it deems proper to effect a substantially equal division of the property.

(2) As an additional award or offset against existing property, the court may award, from a party's share, any sum it determines to have been deliberately misappropriated by the party to the exclusion of the community property or quasi-community property interest of the other party.

(3) If the net value of the community property and quasi-community property is less than five thousand dollars ($5,000) and one party cannot be located through the exercise of reasonable diligence, the court may award all such property to the other party on such conditions as it deems proper in its judgment decreeing the dissolution of the marriage or in its judgment decreeing the legal separation of the parties.

(4) In assigning the liabilities to the parties, the court shall take

into consideration such factors as the earning capacity of, and the exempt character of assets awarded to, the party to whom a liability is assigned so as to protect the rights of the creditors to the extent practical, provided that, after deduction of the liabilities assigned to a party from the assets awarded to the party, the net division of the community and quasi-community property is equal, subject to any limitations provided by statute. Nothing in this subdivision shall be contrued to limit the authority of the court to make an equitable assignment of liabilities in a case in which the liabilities exceed the assets of the marriage.

(c) Notwithstanding subdivision (a), community property personal injury damages shall be assigned to the party who suffered the injuries unless the court, after taking into account the economic condition and needs of each party, the time that has elapsed since the recovery of the damages or the accrual of the cause of action, and all other facts of the case, determines that the interests of justice require another disposition. In such case, the community property personal injury damages shall be assigned to the respective parties in such proportions as the court determines to be just, except that at least one-half of the damages shall be assigned to the party who suffered the injuries. As used in this subdivision, "community property personal injury damages" means all money or other property received or to be received by a person in satisfaction of a judgment for damages for his or her personal injuries or pursuant to an agreement for the settlement or compromise of a claim for the damages, if the cause of action for the damages arose during the marriage but is not separate property as defined in Section 5126, unless the money or other property has been commingled with other community property.

(d) The court may make such orders as it deems necessary to carry out the purposes of this section.

SEC. 2. Section 4800.3 is added to the Civil Code, to read:

4800.3. (a) As used in this section, "community contributions to education or training" means payments made with community property for education or training or for the repayment of a loan incurred for education or training.

(b) Subject to the limitations provided in this section, upon dissolution of marriage or legal separation:

(1) The community shall be reimbursed for community contributions to education or training of a party that substantially enhances the earning capacity of the party. The amount reimbursed shall be with interest at the legal rate, accruing from the end of the calendar year in which the contributions were made.

(2) A loan incurred during marriage for the education or training of a party shall not be included among the liabilities of the community for the purpose of division pursuant to Section 4800 but shall be assigned for payment by the party.

(c) The reimbursement and assignment required by this section shall be reduced or modified to the extent circumstances render such

a disposition unjust, including but not limited to any of the following:

(1) The community has substantially benefited from the education, training, or loan incurred for the education or training of the party. There is a rebuttable presumption, affecting the burden of proof, that the community has not substantially benefited from community contributions to the education or training made less than 10 years before the commencement of the proceeding, and that the community has substantially benefited from community contributions to the education or training made more than 10 years before the commencement of the proceeding.

(2) The education or training received by the party is offset by the education or training received by the other party for which community contributions have been made.

(3) The education or training enables the party receiving the education or training to engage in gainful employment that substantially reduces the need of the party for support that would otherwise be required.

(d) Reimbursement for community contributions and assignment of loans pursuant to this section is the exclusive remedy of the community or a party for the education or training and any resulting enhancement of the earning capacity of a party. However, nothing in this subdivision shall limit consideration of the effect of the education, training, or enhancement, or the amount reimbursed pursuant to this section, on the circumstances of the parties for the purpose of an order for support pursuant to Section 4801.

(e) This section is subject to an express written agreement of the parties to the contrary.

SEC. 3. Section 4801 of the Civil Code is amended to read:

4801. (a) In any judgment decreeing the dissolution of a marriage or a legal separation of the parties, the court may order a party to pay for the support of the other party any amount, and for any period of time, as the court may deem just and reasonable. In making the award, the court shall consider all of the following circumstances of the respective parties:

(1) The earning capacity of each spouse, taking into account the extent to which the supported spouse's present and future earning capacity is impaired by periods of unemployment that were incurred during the marriage to permit the supported spouse to devote time to domestic duties and the extent to which the supported spouse contributed to the attainment of an education, training, or a license by the other spouse.

(2) The needs of each party.

(3) The obligations and assets, including the separate property, of each.

(4) The duration of the marriage.

(5) The ability of the supported spouse to engage in gainful employment without interfering with the interests of dependent children in the custody of the spouse.

(6) The time required for the supported spouse to acquire

appropriate education, training, and employment.

(7) The age and health of the parties.

(8) The standard of living of the parties.

(9) Any other factors which it deems just and equitable.

At the request of either party, the court shall make appropriate factual determinations with respect to the circumstances. The court may order the party required to make the payment of support to give reasonable security therefor. Any order for support of the other party may be modified or revoked as the court may deem necessary, except as to any amount that may have accrued prior to the date of the filing of the notice of motion or order to show cause to modify or revoke. At the request of either party, the order of modification or revocation shall include a statement of decision and may be made retroactive to the date of filing of the notice of motion or order to show cause to modify or revoke, or to any date subsequent thereto.

(b) Except as otherwise agreed by the parties in writing, the obligation of any party under any order or judgment for the support and maintenance of the other party shall terminate upon the death of either party or the remarriage of the other party.

(c) When a court orders a person to make specified payments for support of the other party for a contingent period of time, the liability of the person terminates upon the happening of the contingency. If the party to whom payments are to be made fails to notify the person ordered to make the payments, or the attorney of record of the person so ordered, of the happening of the contingency and continues to accept support payments, the supported party shall refund any and all moneys received which accrued after the happening of the contingency, except that the overpayments shall first be applied to any and all support payments which are then in default. The court may, in the original order for support, order the party to whom payments are to be made to notify the person ordered to make the payments, or his or her attorney of record, of the happening of the contingency.

(d) An order for payment of an allowance for the support of one of the parties shall terminate at the end of the period specified in the order and shall not be extended unless the court in its original order retains jurisdiction.

(e) In any proceeding under this section the court may order a party to submit to an examination by a vocational training consultant. The order may be made only on motion, for good cause shown, and upon notice to the party to be examined and to all parties, and shall specify the time, place, manner, conditions, scope of the examination, and the person or persons by whom it is to be made. The party refusing to comply with such an order shall be subject to the same consequences provided for failure to comply with an examination ordered pursuant to Section 2032 of the Code of Civil Procedure.

(f) For the purposes of this section, "vocational training consultant" means an individual with sufficient knowledge, skill,

experience, training, or education relating to interviewing, the testing and analysis of work skills, the planning of courses of training and study, the formulation of career goals, and the work market to qualify as an expert in vocational training under Section 720 of the Evidence Code.

SEC. 4. This act applies to all of the following proceedings:

(a) Proceedings commenced on or after January 1, 1985.

(b) Proceedings commenced before January 1, 1985, if proceedings as to the division of property are not yet final on January 1, 1985. Nothing in this subdivision shall be construed to authorize reimbursement to be made or a support order to be made or modified pursuant to this act after the proceedings as to the division of property become final.

SEC. 5. Section 1.5 of this bill incorporates amendments to Section 4800 of the Civil Code proposed by both this bill and Assembly Bill 1460. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 4800 of the Civil Code, and (3) this bill is enacted after Assembly Bill 1460, in which case Section 1 of this bill shall not become operative.

CHAPTER 1662

An act to add Section 78008 to, and to add and repeal Article 5 (commencing with Section 71200) of Chapter 1 of Part 44 of, the Education Code, relating to community colleges, and making an appropriation therefor.

[Approved by Governor September 30, 1984 Filed with Secretary of State September 30, 1984]

I am deleting the $1.5 million appropriation contained in Section 6(b) of Assembly Bill No. 3938.

The bill still retains the $100,000 appropriation for the study on the use of contractural education programs by community college districts, and $500,000 for grants in the current fiscal year. Future funding for this program should be considered as a part of the normal budgetary process.

With this deletion, I approve Assembly Bill No. 3938.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. The Legislature finds that the number and scope of contractual agreements between community colleges and private and public agencies for the provision of specific educational services has increased rapidly over the past 10 years. In order to assess the scope and nature of contractual education programs, and their role in the overall mission of the community colleges, it is the intent of

the Legislature that a study of contractual education programs in the community colleges be conducted.

SEC. 2. Section 78008 is added to the Education Code, to read:

78008. (a) The governing board of any community college district may establish, or with one or more community college districts may establish, contractual education programs within or outside the state by agreement with any public or private agency, corporation, association, or any other person or body, to provide specific educational programs or training to meet the specific needs of these bodies.

The contracting community college district or districts shall recover, from all revenue sources, including, but not limited to, public and private sources, or any combination thereof, an amount equal to, but not less than, the actual costs incurred in providing these programs or training.

The attendance of students in these contractual education programs shall not be included for purposes of calculating the average daily attendance for apportionments to these districts, unless all statutory and regulatory conditions for generating average daily attendance are met.

(b) On or before February 1, 1985, the Chancellor of the California Community Colleges shall appoint a task force for the purpose of preparing a study on the use of contractual education programs by community college districts. The scope, size, and composition of the task force shall, at a minimum, include representatives from all of the following:

(1) Community college districts, including at least one representative with practical experience in contractual education programs.

(2) Exclusive employee representatives selected pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.

(3) Private industry, including at least one representative with practical experience in contractual education programs.

(4) Small business.

(5) The statewide Academic Senate of the California Community Colleges.

(c) On or before January 1, 1986, the contractual education task force established pursuant to subdivision (a) shall submit a report to the chancellor and the Legislature. In the event that additional time is necessary and upon a majority vote of the task force, the deadlines for the report may be extended up to June 30, 1986. The report of the task force shall include, but not be limited to, all of the following:

(1) The identification of barriers to the utilization of contractual education programs by public agencies and private industry.

(2) Local flexibility deemed necessary for the delivery of contractual education programs by community college districts.

(3) The scope and description of current practices in contractual education programs conducted by public agencies and private

industry.

(4) Existing state statutes and regulations and local ordinances and regulations regarding contractual education.

(5) The role of foundations, auxiliary organizations, and other corporations and agencies in the field of contractual education.

(6) The extent of overlap and duplication in the contractual education services provided by public and private entities.

(7) The effect of contractual education upon academic freedom and the quality of instructional programs.

(8) The extent to which community college faculty members participate in contractual education programs.

(9) The number of contractual education programs for which credit is given, compared to the number of programs conducted on a noncredit basis.

(10) The role of contractual education programs within the context of the overall duties and responsibilities of community college districts.

(d) It is the intent of the Legislature that the report prepared pursuant to subdivision (c) be transmitted to any entity designated by the Legislature to review the mission of the California Community Colleges.

SEC. 3. The Legislature finds that rapid technological changes are occurring in manufacturing, business processes, health care, and other fields in California, creating a need for new employee skills and for vocational education and employment preparation programs that are up to date with technological advances.

To encourage these trends, the Legislature intends that there be effective linkages and exchanges between the California community college system and the private sector in order to upgrade the technical information and skills of community college instructors and counselors, so that students will learn current theory and practice and receive up-to-date information about job requirements and opportunities.

Therefore, the Legislature intends that there be established a Community College Instructor and Counselor In-Service Training Pilot Program within the office of the Chancellor of the California Commmunity Colleges, for the purpose of providing in-service training to community college instructors and counselors.

SEC. 4. Article 5 (commencing with Section 71200) is added to Chapter 1 of Part 44 of the Education Code, to read:

Article 5. Community College Vocational Education and Technology Instructor and Counselor In-Service Training Pilot Program

71200. (a) There is established within the office of the Chancellor of the Community Colleges the Community College Vocational Education and Technology Instructor and Counselor In-Service Training Pilot Program.

(b) The purpose of this pilot program is to award grants to eligible community college districts for qualified in-service training programs.

71201. To be eligible to receive an in-service training grant under this article, a community college district shall submit to the chancellor a plan which shall contain all of the following:

(a) A description of the program, including the specific objectives of the program as well as the location and duration of the program.

(b) A description of the financial and in-kind contributions to be used in conjunction with the grant.

(c) A certification stating all of the following:

(1) That the proposed program has been approved by the chancellor and governing board of the community college district.

(2) That the program, as proposed, will provide in-service training opportunities not elsewhere available under current funding arrangements.

(3) That the program will meet the intent of this article in upgrading and improving currency of vocational education and technology instructor and career counselor skills.

71202. (a) For the purposes of this article, a qualified in-service training program is one which provides all of the following:

(1) Addresses one or more vocational education curriculum areas that are affected by changing technology and workplace skills.

(2) Provides for a local contribution to match state funds through financial support or in-kind services. For the purposes of this paragraph, local matching funds may include, but not be limited to, funds received from any of the following:

(A) The federal Job Training Partnership Act.

(B) The Employment Training Panel.

(C) Business labor councils.

(D) The private sector.

(E) Private foundations.

(3) Is conducted at the worksite, or in specialized training facilities owned or operated by private industry for the purposes of training.

(b) For purposes of this section, the only item of approved expenditure attributable to the state appropriation for this article shall be the stipends for the teacher or counselor and the 10 percent administration expenses. Approvable costs shall not include reimbursements to private industry for facilities or employer services.

71203. In selecting proposals to receive in-service training grants under this article, the chancellor shall ensure that all of the following criteria are met:

(a) The maximum amount that an individual district receives within a 12-month period shall not exceed one hundred thousand dollars ($100,000), except that multicollege districts may qualify to receive within a 12-month period an amount equal to fifty thousand dollars ($50,000) multiplied times the number of colleges within the

district.

(b) The proposals selected shall reflect the diverse makeup of geographical regions, district sizes, and vocational education program offerings of the community college districts.

(c) The proposals selected shall reflect areas of greatest need, taking into consideration the prior in-service training, coursework, and work experience of instructors and counselors in all vocational education curriculum areas who are eligible to participate in the program.

71204. (a) The chancellor of a community college district which receives an in-service training grant shall, prior to receipt of the grant, execute an agreement with each instructor or counselor to receive training that evidences the commitment of the instructor or counselor to remain within the California Community College system in the teaching or counseling field and provides for full or partial reimbursement of the district in the event that the instructor or counselor voluntarily leaves employment within the California Community College system in the teaching or counseling profession within three years after completion of an approved in-service training program.

(b) Any counselor or instructor who voluntarily leaves employment within the California Community College system in the teaching or counseling profession within three years after completion of an approved in-service training program shall reimburse the district for the costs of his or her training pursuant to a repayment schedule established by the chancellor for that purpose. The repayment schedule shall be based upon the period of service provided by the counselor or instructor after receiving the training, up to the date of the counselor or instructor's termination of employment.

71205. (a) The chancellor shall adopt regulations as are necessary to carry out the purposes of this article.

(b) On or before November 30, 1986, the chancellor shall submit a report to the Legislature regarding the pilot program. The report shall include, but not be limited to, all of the following information:

(1) The number, types, and duration of the programs funded pursuant to this article.

(2) The nature of local financial and in-kind support provided to programs.

(3) Recommendations concerning future funding sources for in-service training of vocational education instructors and counselors.

(4) Analyses of the cost effectiveness of in-service training compared with that of other methods of providing training to vocational education instructors and counselors.

71206. This article shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute which is chaptered before January 1, 1989, deletes or extends that date.

SEC. 5. The sum of one hundred thousand dollars ($100,000) is

hereby appropriated from the General Fund to the Chancellor of the California Community Colleges for the 1984–85 fiscal year for purposes of implementing subdivision (b) of Section 78008 of the Education Code, as added by Section 3 of this act.

SEC. 6. The sum of two million dollars ($2,000,000) is hereby appropriated from the General Fund to the Chancellor of the California Community Colleges for the 1984–85 and 1985–86 fiscal years for the purposes of carrying out Article 5 (commencing with Section 71200) of Chapter 1 of Part 44 of the Education Code.

These funds shall be allocated in accordance with the following schedule:

(a) Five hundred thousand dollars ($500,000) shall be available for allocation during the period of January 1, 1985, to August 15, 1985.

(b) One million five hundred thousand dollars ($1,500,000) shall be available for allocation during the period of August 15, 1985, to June 30, 1986.

CHAPTER 1663

An act to amend Section 8655 of, and to add Section 8655.5 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

I am deleting the appropriations contained in Section 2 of Assembly Bill No. 281.

These appropriations represent General Fund reimbursements for the exemption and cancellation of use fuel taxes, interest and penalties. It would be inappropriate to isolate this exemption as a General Fund cost when the Highway Users Tax Fund assumes the burden of use fuel tax exemptions for other entities.

Deleting these appropriations would (1) make the cost responsibility of this new exemption consistent with that under current law, and (2) preclude the establishment of a precedent that the General Fund reimburse special funds for their losses.

With this deletion, I approve Assembly Bill No. 281.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 8655 of the Revenue and Taxation Code is amended to read:

8655. (a) This section shall be known and may be cited as the Mills-Hayes Act.

(b) No tax shall be imposed upon fuel used by:

(1) Any transit district, transit authority, or city owning and operating a local transit system itself or through a wholly owned nonprofit corporation.

(2) Any private entity providing transportation services for the

transportation of people under contract or agreement, except general franchise agreements, with a public agency authorized to provide public transportation services, only for fuels consumed while providing services under such contracts or agreements entered into subsequent to the effective date of this act.

(3) Any passenger stage corporation subject to the jurisdiction of the Public Utilities Commission when the motor vehicles of such passenger stage corporation are exclusively operated in urban or suburban areas or between cities in close proximity for the transportation of persons for hire, compensation, or profit; provided, however, that the exemption is not extended to any line or lines operated by such passenger stage corporation which shall exceed 50 miles of one-way route mileage.

(4) Any common carrier of passengers operating exclusively on any line or lines within the limits of a single city between fixed termini or over a regular route, 98 percent of whose operations, as measured by total route mileage operated, are exclusively within the limits of a single city, and who by reason thereof is not a passenger stage corporation subject to the jurisdiction of the Public Utilities Commission.

(5) Any school district, community college district, or county superintendent of schools owning, leasing, or operating buses for the purpose of transporting pupils to and from school and for other school or college activities involving pupils, including, but not limited to, field trips and athletic contests.

(6) Any private entity providing transportation services for the purposes specified in paragraph (5) under contract or agreement with a school district, community college district, or county superintendent of schools, only for fuels consumed while providing services under those contracts or agreements entered into subsequent to the effective date of the act adding this paragraph.

(c) Notwithstanding the exemption provided for by subdivision (b), any system, corporation, or carrier using fuel exempt under the provisions of subdivision (b) shall, for the privilege of operating vehicles on state highways and freeways, make a payment equal to one cent ($0.01) for each gallon of such exempt fuel used. The payments required by this subdivision shall be paid to the State Board of Equalization in the manner prescribed by the board, and such payments shall be treated as a tax for all purposes of this part.

(d) The exemption provided for in subdivision (b) and the payments provided for in subdivision (c) shall not be applicable to fuel used by a charter-party carrier of passengers. The term "charter-party carrier of passengers" has the same meaning as that specified in Section 5360 of the Public Utilities Code and shall further include those transportation services described in subdivisions (a) and (e) of Section 5353 of the Public Utilities Code, if such transportation service is rendered as contract carriage and not as common carriage of passengers.

(e) There are in the State of California many local bus transit

operators in need of financial assistance from sources other than the local property tax. These operators are performing essential public transit service as a vital counterpart of the streets and highways. It is the purpose of this section to provide relief from the payment of use fuel tax for local transit operators and it is the intent of the Legislature that the funds accruing to such operators shall be used for the improvement of their transit operations and to aid in providing better transit service to and from places of employment.

There are also in the State of California many private entities providing public transportation services for the transportation of people in vehicles other than buses under contract or agreement with local government, transit districts or local bus transit operators. It is the purpose of this section to provide relief from the payment of use fuel taxes for diesel fuel for those private entities only for fuel consumed while providing these services.

SEC. 2. Section 8655.5 is added to the Revenue and Taxation Code, to read:

8655.5. (a) Commencing with the 1984–85 fiscal year, the Controller shall annually transfer from the General Fund to the Highway Users Tax Account in the Transportation Tax Fund, the amount, as determined by the State Board of Equalization, necessary to fully reimburse the account for any revenue loss caused by the exemptions provided by paragraphs (5) and (6) of subdivision (b) of Section 8655.

(b) In addition, the Controller shall transfer, on January 1, 1985, the sum of four hundred thirty-five thousand dollars ($435,000) from the General Fund to the account to fully reimburse the account for the revenue loss caused by Section 3 of the act enacting this section.

SEC. 3. The Legislature finds and declares that there presently is uncertainty in the application of diesel fuel taxes with respect to school districts and community college districts which this act is intended to clarify.

For the public purpose of assuring equity in the payment of diesel fuel taxes among school districts and community college districts, the Legislature, in enacting this act, intends to clarify existing law and to affect all applicable pending proceedings which come within the provisions of paragraph (5) of subdivision (b) of Section 8655 of the Revenue and Taxation Code, as follows:

(a) Notwithstanding Section 8782 of the Revenue and Taxation Code, for reporting periods prior to July 1, 1984, the notice of determination to a school district, community college district, or county superintendent of schools shall be given within three years after the last day of the month following the period for which the return was due. Any unpaid liability determined for periods beyond a three-year statute of limitations is hereby canceled.

(b) No interest or penalties pursuant to Sections 8803 and 8804 of the Revenue and Taxation Code shall apply to unpaid determinations issued for any periods prior to July 1, 1984.

(c) With respect to determinations issued for the period between

July 1, 1981, and July 1, 1984, pursuant to Section 8801, the taxes may, at the option of the taxpayer, be paid over a period of up to 10 years. No penalties shall be assessed so long as the installment payments are made timely, but interest on the unpaid balance shall be paid as prescribed by Section 8876 of the Revenue and Taxation Code.

(d) If the State Board of Equalization finds that the failure to make a timely payment pursuant to subdivision (c) is due to reasonable cause and circumstances beyond the taxpayer's control, and occurred, notwithstanding the exercise of ordinary care and the absence of willful neglect, the taxpayer may be relieved of the penalty.

SEC. 4. This act shall become operative on October 1, 1984.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1664

An act to repeal and add Chapter 4.5 (commencing with Section 18275) to Part 6 of Division 9 of the Welfare and Institutions Code, relating to child sexual abuse prevention, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. The Legislature finds that Californians are increasingly ready to address and ameliorate a major unresolved problem in our state, child sexual abuse. Statistics reveal that one-fifth of all women were sexually abused as children, a dreadfully high number. The recent media exposure of the problem and the continuously rising incidence of reported abuse has greatly increased the demand for services and expertise from public and private programs throughout the state which provide counseling and assistance to the victims and the families of victims of child sexual abuse. However, many community treatment centers are nonprofit organizations that do not generate a significant cash flow and consequently are unable to immediately increase their staff to provide sufficient services to meet the current public demand for their services.

The Legislature also finds that it is necessary to provide training and technical assistance throughout the state to service providers, both public and private, group and individual, to insure their effectiveness in assisting victims and their families with a comprehensive approach to address this problem. Chapter 4.5 (commencing with Section 18275) of Part 6 of Division 9 of the

Welfare and Institutions Code, as it existed prior to its repeal by this act, provided for the development and funding of a child sexual abuse prevention demonstration center which, in part, provided for the development of training programs relating to the prevention of sexual abuse of children. It is the intention of the Legislature to expand and continue the work of the center developed and funded pursuant to those provisions in order to provide for the expanded training and technical assistance needed to address this problem, under the administration of the Office of Criminal Justice Planning.

The Legislature also finds that a temporary infusion of funds into community treatment centers will allow them to meet the current service demand and give them time to generate sufficient funds from other sources to provide for continued increased levels of service as long as the demand exists.

SEC. 2. Chapter 4.5 (commencing with Section 18275) of Part 6 of Division 9 of the Welfare and Institutions Code is repealed.

SEC. 3. Chapter 4.5 (commencing with Section 18275) is added to Part 6 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 4.5. CHILD SEXUAL ABUSE PREVENTION TRAINING CENTERS

18275. The Legislature finds that there is a need to develop programs to provide the kinds of innovative strategies and services which will ameliorate, reduce, and ultimately eliminate the trauma of child sexual abuse.

The Legislature also finds that for the purposes of developing and providing these programs and services, and for the training of, and providing information to, city and county personnel throughout the state, it is necessary to expand the services provided by the child sexual abuse prevention demonstration center established pursuant to the former provisions of this chapter.

18276. The functions and goals of the program developed by the centers shall include all of the following:

(a) Provision of counseling and practical assistance by onsite professionals to sexually abused children and their families, particularly to victims of incest.

(b) Hastening, where in the interests of the child, the process of reconstitution of the family and the marriage.

(c) Marshaling and coordinating the services of all agencies responsible for the sexually abused child and his or her family, as well as other resources to ensure comprehensive, supportive case management.

(d) Employment of a model that fosters self-managed growth, rather than a medical model based on curing disease, and that avoids static theory and methods.

(e) Responding to individual physical, emotional, and social needs of clients so that supportive services are individually tailored and applied as long as necessary.

(f) Facilitation of the expansion and autonomy of self-help groups and provision of guidance to the membership, such as (1) training in cocounseling, self-management, and intrafamily communication techniques, and (2) training in locating community resources.

(g) Informing the public at large and professional agencies about the existence and supportive approach of the program with the aim of encouraging victims and offenders to seek the services of the program voluntarily.

(h) Development of informational and training materials and seminars to enable emulation or adaptation of the program by other communities, emphasizing the program's stress on cooperation and coordination with all appropriate elements of the criminal justice system and law enforcement system.

18276.5. (a) The two centers selected pursuant to Section 18277 shall develop training programs pertaining to the prevention of and assistance to victims of child sexual abuse and their families. These programs shall be designed for the training of interagency teams of service providers and individual service providers throughout the state, including public and private personnel, who shall in turn offer that training in their communities.

(b) The department shall enter into contracts with each center providing for training and allocating training positions to each center as funds are available to pay for the tuition of individuals who attend the training programs. The contracts shall provide the same amount of funding for each center.

(c) Subject to the review of the department, the centers shall select trainees based upon the following criteria:

(1) In the first year, a minimum of ten individuals from each county shall be chosen.

(2) In subsequent years, a minimum of one-fourth of all positions shall be allocated to rural counties.

(3) When possible, distribution shall be based on the relative population of the counties in which the participants provide services.

(4) The rate of demand for services by child sexual abuse victims and their families in the county.

(5) An emphasis shall be placed on the training of teams of service providers from a geographic area, rather than on training individual service providers.

(6) The ability of the individuals chosen to duplicate the training in his or her geographic area.

(7) The ability of the individuals to apply the training as a direct service provider.

(8) A geographic dispersion of trainees throughout a county is preferred, where feasible.

18277. The executive director of the Office of Criminal Justice Planning shall select two child sexual abuse prevention training centers, one in northern California and the other in southern California, which shall receive state funds pursuant to this chapter. The executive director shall give consideration to existing

demonstration programs relating to the prevention of sexual abuse of children and may award grant awards on a sole source basis to the two training centers which he or she selects for funding. The Office of Criminal Justice Planning shall appraise the performance of the training centers on an annual basis and recommend to the executive director whether they shall receive continuation grants.

18278. (a) The Office of Criminal Justice Planning shall make grants to community nonprofit child sexual abuse treatment programs that are unable to meet the current demand for their services, pursuant to this section.

(b) Programs seeking these grants shall apply to the Office of Criminal Justice Planning in the manner prescribed by the office. Each award shall be limited to twenty-five thousand dollars ($25,000). Programs shall be selected based, at a minimum, on the following criteria:

(1) The program's inability to meet the public demand for its services.

(2) The program's use of the award to maximize the services provided to clients who would not otherwise be served.

(3) The likelihood that the program will be able to maintain the new level of service after the funds granted are depleted.

The awards shall be equitably distributed to programs in northern and southern California. At least one-fourth of the funds shall be distributed to rural programs.

(c) The office shall fund programs as expeditiously as possible; program funding shall commence within 90 days after the effective date of this chapter.

18278.5. The Office of Criminal Justice Planning shall enter into contracts with the centers for the provision of services required by this chapter within four months of the effective date of this chapter.

18279. The executive director shall submit annual reports to the Legislature concerning his or her findings regarding the degree of achievement by the centers of the goals of this chapter. The first such report shall be submitted no later than one year after the beginning of the operation of the centers pursuant to this chapter.

18279.5. The centers may seek, receive, and make use of any funds which may be made available from federal, voluntary, philanthropic, or other sources in order to augment any state funds appropriated for the purposes of this chapter.

SEC. 4. The sum of one million dollars ($1,000,000) is hereby appropriated from the General Fund to the Office of Criminal Justice Planning, for the 1984–85 fiscal year, for the purposes of this act, to be allocated as follows:

(a) Seven hundred thousand dollars ($700,000) for the training programs established by Section 18276.5. It is the intention of the Legislature that the funding of these training programs shall be continued at at least this level in future years.

(b) Three hundred thousand dollars ($300,000) for the programs established by Section 18278. The Office of Criminal Justice Planning

shall utilize not more than 5 percent of the funds so appropriated for administrative expenses.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that individuals who have been, are, and will be victims of child sexual abuse shall receive the benefit of the training and services provided by this act to help ameliorate the trauma of their experiences, it is necessary that this act go into immediate effect.

CHAPTER 1665

An act to amend Sections 70 and 243 of the Penal Code, relating to peace officers.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 70 of the Penal Code is amended to read:

70. (a) Every executive or ministerial officer, employee, or appointee of the State of California, or any county or city therein, or any political subdivision thereof, who knowingly asks, receives, or agrees to receive any emolument, gratuity, or reward, or any promise thereof excepting such as may be authorized by law for doing an official act, is guilty of a misdemeanor.

(b) This section does not prohibit deputy registrars of voters from receiving compensation when authorized by local ordinance from any candidate, political committee, or statewide political organization for securing the registration of voters.

(c) Nothing in this section precludes a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, from engaging in, or being employed in, casual or part-time employment as a private security guard or patrolman for a public entity while off duty from his or her principal employment and outside his or her regular employment as a peace officer of a state or local agency, and exercising the powers of a peace officer concurrently with that employment, provided that the peace officer is in a police uniform and is subject to reasonable rules and regulations of the agency for which he or she is a peace officer and within the provisions of subdivisions (k) and (*l*) of Section 7522 of the Business and Professions Code. Notwithstanding the above provisions, any and all civil and criminal liability arising out of the secondary employment of any peace officer pursuant to this subdivision shall be borne by the officer's secondary employer.

It is the intent of the Legislature by this subdivision to abrogate the

holdings in People v. Corey, 21 Cal. 3d 738, and Cervantez v. J.C. Penney Co., 24 Cal. 3d 579, to reinstate prior judicial interpretations of this section as they relate to criminal sanctions for battery on peace officers who are employed, on a part-time or casual basis, by a public entity, while wearing a police uniform as private security guards or patrolmen, and to allow the exercise of peace officer powers concurrently with that employment.

(d) Nothing in this section precludes a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, from engaging in, or being employed in, casual or part-time employment as a private security guard or patrolman by a private employer while off duty from his or her principal employment and outside his or her regular employment as a peace officer, and exercising the powers of a peace officer concurrently with that employment, provided that all of the following are true:

(1) The peace officer is in his or her police uniform.

(2) The casual or part-time employment as a private security guard or patrolman is approved by the county board of supervisors with jurisdiction over the principal employer or by the board's designee or by the city council with jurisdiction over the principal employer or by the council's designee.

(3) The wearing of uniforms and equipment is approved by the principal employer.

(4) The peace officer is subject to reasonable rules and regulations of the agency for which he or she is a peace officer and within the provisions of subdivisions (k) and (*l*) of Section 7522 of the Business and Professions Code.

Notwithstanding the above provisions, a peace officer while off duty from his or her principal employment and outside his or her regular employment as a peace officer of a state or local agency shall not exercise the powers of a police officer if employed by a private employer as a security guard during a strike, lockout, picketing, or other physical demonstration of a labor dispute at the site of the strike, lockout, picketing, or other physical demonstration of a labor dispute. The issue of whether or not casual or part-time employment as a private security guard or patrolman pursuant to this subdivision is to be approved shall not be a subject for collective bargaining. Any and all civil and criminal liability arising out of the secondary employment of any peace officer pursuant to this subdivision shall be borne by the officer's principal employer. The principal employer may require the secondary employer to enter into an indemnity agreement as a condition of approving casual or part-time employment pursuant to this subdivision.

It is the intent of the Legislature by this subdivision to abrogate the holdings in People v. Corey, 21 Cal. 3d 738, and Cervantez v. J. C. Penney Co., 24 Cal. 3d 579, to reinstate prior judicial interpretations of this section as they relate to criminal sanctions for battery on peace officers who are employed, on a part-time or casual basis, while wearing a police uniform approved by the principal employer, as

private security guards or patrolmen, and to allow the exercise of peace officer powers concurrently with that employment.

SEC. 2. Section 243 of the Penal Code is amended to read:

243. (a) A battery is punishable by a fine of not exceeding two thousand dollars ($2,000), or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

(b) When a battery is committed against the person of a peace officer, custodial officer, firefighter, emergency medical technician, mobile intensive care paramedic, or lifeguard, engaged in the performance of his or her duties, whether on or off duty, including when the peace officer is in a police uniform and is concurrently performing the duties required of him or her as a peace officer while also employed in a private capacity as a part-time or casual private security guard or patrolman, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that the victim is a peace officer, custodial officer, firefighter, emergency medical technician, mobile intensive care paramedic, or lifeguard, engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care, the battery is punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

(c) When a battery is committed against a peace officer, custodial officer, firefighter, emergency medical technician, mobile intensive care paramedic, or lifeguard, engaged in the performance of his or her duties, whether on or off duty, including when the peace officer is in a police uniform and is concurrently performing the duties required of him or her as a peace officer while also employed in a private capacity as a part-time or casual private security guard or patrolman, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that the victim is a peace officer, custodial officer, firefighter, emergency medical technician, mobile intensive care paramedic, or lifeguard, engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care, and an injury is inflicted on that victim, the battery is punishable by imprisonment in the county jail for a period of not more than one year, or by a fine of not more than two thousand dollars ($2,000), or by imprisonment in the state prison for 16 months, or two or three years.

(d) When a battery is committed against any person and serious bodily injury is inflicted on the person, the battery is punishable by imprisonment in the county jail for a period of not more than one year or imprisonment in the state prison for two, three, or four years.

(e) As used in this section:

(1) "Peace officer" means any person defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) "Emergency medical technician" means a person possessing a valid course completion certificate from a program approved by the State Department of Health Services for the medical training and education of ambulance personnel, and who meets the standards of Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(3) "Mobile intensive care paramedic" means any person who meets the standards set forth in Section 1481 of, and Division 2.5 (commencing with Section 1797) of, the Health and Safety Code.

(4) "Nurse" means a person who meets the standards of Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(5) "Serious bodily injury" means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.

(6) "Injury" means any physical injury which requires professional medical treatment.

(7) "Custodial officer" means any person who has the responsibilities and duties described in Section 831 and who is employed by a law enforcement agency of any city or county or who performs those duties as a volunteer.

(8) "Lifeguard" means a person defined in paragraph (5) of subdivision (c) of Section 241.

It is the intent of the Legislature by amendments to this section at the 1981–82 and 1983–84 Regular Sessions to abrogate the holdings in cases such as People v. Corey, 21 Cal. 3d 738, and Cervantez v. J.C. Penney Co., 24 Cal. 3d 579, and to reinstate prior judicial interpretations of this section as they relate to criminal sanctions for battery on peace officers who are employed, on a part-time or casual basis, while wearing a police uniform as private security guards or patrolmen and to allow the exercise of peace officer powers concurrently with that employment.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1666

An act to add Section 198.5 to the Penal Code, relating to self-defense.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 198.5 is added to the Penal Code, to read:

198.5. Any person using force intended or likely to cause death or great bodily injury within his or her residence shall be presumed to have held a reasonable fear of imminent peril of death or great bodily injury to self, family, or a member of the household when that force is used against another person, not a member of the family or household, who unlawfully and forcibly enters or has unlawfully and forcibly entered the residence and the person using the force knew or had reason to believe that an unlawful and forcible entry occurred.

As used in this section, great bodily injury means a significant or substantial physical injury.

SEC. 2. This act shall be known and may be cited as the Home Protection Bill of Rights.

CHAPTER 1667

An act to amend Section 1505 of, to add Chapter 7.5 (commencing with Section 11834.10) to Part 2 of Division 10.5 of, to add Sections 11830.5 and 11831.5 to, and to repeal Sections 11830 and 11831 of, the Health and Safety Code, relating to alcohol programs.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 1505 of the Health and Safety Code, as amended by Section 6 of Chapter 1162 of the Statutes of 1981, is amended to read:

1505. The provisions of this chapter shall not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.

(d) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 727 of the Welfare and Institutions Code.

(e) Any facility conducted by and for the adherents of any

well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or denomination.

(f) Any school dormitory or similar facility determined by the department.

(g) Any house, institution, hotel, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the director.

(h) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.

(i) Any alcoholism recovery facility as defined by Section 11834.11.

(j) Any cooperative arrangement between parents for the care of their children by one or more of the parents where no payment for the care is involved.

(k) Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons from only one family by a close friend of the parent, guardian, or conservator, if such arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the state department.

(*l*) Any similar facility determined by the director.

This section shall become operative July 1, 1984.

SEC. 1.1. Section 1505 of the Health and Safety Code is amended to read:

1505. The provisions of this chapter shall not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.

(d) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 727 of the Welfare and Institutions Code.

(e) Any child day care facility, as defined in Section 1596.75.

(f) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or denomination.

(g) Any school dormitory or similar facility determined by the department.

(h) Any house, institution, hotel, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the director.

(i) Recovery houses or other similar facilities providing group

living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.

(j) Any alcoholism recovery facility as defined by Section 11834.11.

(k) Any cooperative arrangement between parents for the care of their children by one or more of the parents where no payment for the care is involved.

(*l*) Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons from only one family by a close friend of the parent, guardian, or conservator, if such arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the state department.

(m) Any similar facility determined by the director.

This section shall become operative July 1, 1984.

SEC. 1.2. Section 1505 of the Health and Safety Code is amended to read:

1505. This chapter does not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.

(d) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 727 of the Welfare and Institutions Code.

(e) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of the church or denomination.

(f) Any school dormitory or similar facility determined by the department.

(g) Any house, institution, hotel, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the director.

(h) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.

(i) Any alcoholism recovery facility as defined by Section 11834.11.

(j) Any cooperative arrangement between parents for the care of their children by one or more of the parents where no payment for the care is involved.

(k) Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons from only one family by a close friend of the parent, guardian, or conservator, if the arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the state department.

(*l*) Any public recreation program. "Public recreation program" means a program operated by the state, city, county, special district, school district, community college district, chartered city, or chartered city and county which meets either of the following criteria:

(A) The program is provided for children over the age of four years and nine months and is in operation for either of the following periods:

(i) For under 13 hours per week.

(ii) For more than 12 hours per week and is for 12 weeks or less per year in duration.

(B) The program is provided to children under the age of four years and nine months with sessions which run 12 hours per week or less and are 12 weeks or less in duration.

(m) Any similar facility determined by the director.

SEC. 1.3. Section 1505 of the Health and Safety Code is amended to read:

1505. This chapter does not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.

(d) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 727 of the Welfare and Institutions Code.

(e) Any child day care facility, as defined in Section 1596.75.

(f) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of the church or denomination.

(g) Any school dormitory or similar facility determined by the department.

(h) Any house, institution, hotel, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the director.

(i) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.

(j) Any alcoholism recovery facility as defined by Section 11834.11.

(k) Any cooperative arrangement between parents for the care of their children by one or more of the parents where no payment for the care is involved.

(*l*) Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons from only one family by a close friend of the parent, guardian, or conservator, if the arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the

state department.

(m) Any public recreation program. "Public recreation program" means a program operated by the state, city, county, special district, school district, community college district, chartered city, or chartered city and county which meets either of the following criteria:

(A) The program is provided for children over the age of four years and nine months and is in operation for either of the following periods:

(i) For under 13 hours per week.

(ii) For more than 12 hours per week and is for 12 weeks or less per year in duration.

(B) The program is provided to children under the age of four years and nine months with sessions which run 12 hours per week or less and are 12 weeks or less in duration.

(n) Any similar facility determined by the director.

SEC. 2. Chapter 7.5 (commencing with Section 11834.10) is added to Part 2 of Division 10.5 of the Health and Safety Code, to read:

CHAPTER 7.5. LICENSING

Article 1. General Provisions

11834.10. The department has the sole authority in state government to license alcoholism recovery facilities.

11834.11. As used in this chapter, "alcoholism recovery facility" means any facility, place, or building which is maintained and operated to provide 24-hour residential nonmedical alcoholism recovery services exclusively for individuals whose involvement in services is related primarily to an alcohol problem.

11834.12. No person, firm, partnership, association, corporation, or local governmental entity shall operate, establish, manage, conduct, or maintain an alcoholism recovery facility in this state without obtaining a license issued pursuant to this chapter.

11834.13. The department shall promulgate regulations to implement this chapter in accordance with the purpose and process required in Sections 11835 and 11836. The regulations shall include, but not be limited to, both of the following:

(a) Provision for a formal appeal process for the denial of the license or for the suspension or revocation of a license.

(b) Provision for the issuance of a provisional license, provided the applicant is in substantial compliance with applicable laws and regulations, and an urgent need for licensure exists.

11834.14. Licensure regulations under this chapter shall be consistent with the intent of subdivision (c) of Section 11760.3, and with the goal of protecting the public while promoting the public welfare. Criteria for licensure shall be limited to all of the following:

(a) Completion of a written application containing necessary and

pertinent information describing the applicant facility.

(b) Submission by the applicant of a clearance relative to fire safety from the State Fire Marshal.

(c) Demonstration by the applicant that it possesses adequate administrative, fiscal, and operational capability to achieve its stated goals and objectives.

(d) Inspection by the department, or by any departmental agent who has no financial interests, as defined in Section 87103 of the Government Code, in any alcoholism recovery facility, to determine that the applicant's facility is clean, safe, healthful, and free of alcohol or illicit drug use.

11834.15. The department shall fix a fee for licensure and for license renewal every two years in an amount sufficient to cover its cost in administering the licensure under this chapter for other than nonprofit organizations and local governmental entities. No fee shall be levied for licensure of nonprofit organizations or local governmental entities.

11834.16. The department may deny the license or suspend or revoke the license if the applicant does not meet the requirements of this chapter or the licensee violates any provision of this chapter or any regulation adopted pursuant to this chapter.

11834.17. No city, county, city and county, or district shall adopt or enforce any building ordinance or local rule or regulations relating to the subject of fire and life safety in alcoholism recovery facilities which is inconsistent with those standards adopted by the State Fire Marshal. The standards adopted by the State Fire Marshal shall be based on those occupancy classifications in the Uniform Building Code that most closely conform to the types of program activities and characteristics of the program participants utilizing the alcoholism recovery facility. The department, in consultation with county alcohol program administrators and associations of nonmedical residential alcoholism recovery programs recognized by the department, shall identify those categories of occupancy classification most closely conforming to kinds of program activities and characteristics of program participants utilizing nonmedical residential alcoholism recovery facilities.

11834.18. (a) Nothing in this chapter shall authorize the imposition of rent regulations or controls for licensed alcoholism recovery facilities.

(b) Licensed alcoholism recovery facilities shall not be subject to controls on rent imposed by any state or local agency or other local government or entity.

Article 2. Local Regulation

11834.20. The Legislature hereby declares that it is the policy of this state that each county and city shall permit and encourage the development of sufficient numbers and types of alcoholism recovery facilities as are commensurate with local need.

The provisions of this article apply equally to any chartered city, general law city, county, city and county, district, and any other local public entity.

For the purposes of this article, "six or fewer persons" does not include the licensee or members of the licensee's family or persons employed as facility staff.

11834.21. Any person licensed under this chapter who operates or proposes to operate an alcoholism recovery facility, the department or other public agency authorized to license such a facility, or any public or private agency which uses or may use the services of the facility to place its clients, may invoke the provisions of this article.

This section shall not be construed to prohibit any interested party from bringing suit to invoke the provisions of this article.

11834.22. An alcoholism recovery facility which serves six or fewer persons shall not be subject to any business taxes, local registration fees, use permit fees, or other fees to which other single-family dwellings are not likewise subject. Nothing in this section shall be construed to forbid the imposition of local property taxes, fees for water service and garbage collection, fees for inspections not prohibited by Section 1834.23, local bond assessments, and other fees, charges, and assessments to which other single-family dwellings are likewise subject. Neither the State Fire Marshal nor any local public entity shall charge any fee for enforcing fire inspection regulations pursuant to state law or regulation or local ordinance, with respect to alcoholism recovery facilities which serve six or fewer persons.

11834.23. Whether or not unrelated persons are living together, an alcoholism recovery facility which serves six or fewer persons shall be considered a residential use of property for the purposes of this article. In addition, the residents and operators of such a facility shall be considered a family for the purposes of any law or zoning ordinance which relates to the residential use of property pursuant to this article.

For the purpose of all local ordinances, an alcoholism recovery facility which serves six or fewer persons shall not be included within the definition of a boarding house, rooming house, institution or home for the care of minors, the aged, or the mentally infirm, foster care home, guest home, rest home, sanitarium, mental hygiene home, or other similar term which implies that the alcoholism recovery home is a business run for profit or differs in any other way from a single-family residence.

This section shall not be construed to forbid any city, county, or other local public entity from placing restrictions on building heights, setback, lot dimensions, or placement of signs of an alcoholism recovery facility which serves six or fewer persons as long as the restrictions are identical to those applied to other single-family residences.

This section shall not be construed to forbid the application to an alcoholism recovery facility of any local ordinance which deals with

health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity. However, the ordinance shall not distinguish alcoholism recovery facilities which serve six or fewer persons from other single-family dwellings or distinguish residents of alcoholism recovery facilities from persons who reside in other single-family dwellings.

No conditional use permit, zoning variance, or other zoning clearance shall be required of an alcoholism recovery facility which serves six or fewer persons that is not required of a single-family residence in the same zone.

Use of a single-family dwelling for purposes of an alcoholism recovery facility serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 or local building codes. However, nothing in this section is intended to supersede Section 13143 or 13143.6, to the extent those sections are applicable to alcoholism recovery facilities providing care for six or fewer residents.

11834.24. No fire inspection clearance or other permit, license, clearance, or similar authorization shall be denied to an alcoholism recovery facility because of a failure to comply with local ordinances from which the facility is exempt under Section 11834.23, if the applicant otherwise qualifies for a fire clearance, license, permit, or similar authorization.

11834.25. For the purposes of any contract, deed, or covenant for the transfer of real property executed on or after January 1, 1979, an alcoholism recovery facility which serves six or fewer persons shall be considered a residential use of property and a use of property by a single family, notwithstanding any disclaimers to the contrary.

SEC. 3. Section 11830 of the Health and Safety Code is repealed.

SEC. 4. Section 11830.5 is added to the Health and Safety Code, to read:

11830.5. The department, in consultation with the State Advisory Board, county alcohol program administrators, and other interested organizations and individuals, shall develop program standards for direct and indirect services. These standards shall be advisory only and are excluded from the provisions of Section 11347.5 of the Government Code and other requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) and Chapter 8 (commencing with Section 11835).

The program standards shall include, but not be limited to, both of the following:

(a) Recognition and characterization of different approaches and solutions to alcohol problems that the department determines have sufficient merit for a separate standard.

(b) Reference to the needs of youth, the elderly, women, gay, disabled, and minority populations, with recognition of innovative solutions to the problems of those special populations.

The program standards shall serve as educational documents to inform the public of the current state-of-the-art in effective and cost-efficient alcohol problem programming.

SEC. 5. Section 11831 of the Health and Safety Code is repealed.

SEC. 6. Section 11831.5 is added to the Health and Safety Code, to read:

11831.5. (a) Certification shall be granted by the department pursuant to this section to any alcoholism program wishing to receive, and requesting, the certification regardless of the source of the program's funding.

(b) The purposes of certification under this section shall be all of the following:

(1) To identify programs which exceed minimal levels of service quality, are in substantial compliance with the department's standards, and merit the confidence of the public, third party payors, and county alcohol programs.

(2) To encourage programs to strive for increased quality of service through recognition by the state and by peer programs in the alcoholism field.

(3) To assist programs to identify their needs for technical assistance, training, and program improvements.

(c) (1) Certification shall be granted under this section on the basis of evidence satisfactory to the department that the requesting alcoholism program has an accreditation by a statewide or national alcohol program accrediting body. The accrediting body shall be one whose accreditation meets or exceeds the department's standards and which is recognized by the department.

(2) If the requesting alcoholism program does not meet the requirements under paragraph (1), certification shall be granted to the alcoholism program by the department's application of the program standards developed under Section 11830. The department shall not delegate its responsibility under this paragraph.

(d) No fee shall be levied by the department for certification of nonprofit organizations or local governmental entities under this section.

(e) Certification, or the lack thereof, shall not convey any approval or disapproval by the department, but shall be for information purposes only.

(f) The standards developed pursuant to Section 11830 and the certification under this section shall satisfy the requirements of Section 1463.16 of the Penal Code.

SEC. 7. (a) Notwithstanding Sections 11834.13 and 11836 of the Health and Safety Code, the director shall adopt emergency regulations implementing the provisions of Chapter 7.5 (commencing with Section 11834) of Part 2 of Division 10.5 of the Health and Safety Code without meeting the requirements of Section 11836 of the Health and Safety Code, effective February 1, 1985, in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title

2 of the Government Code). The adoption of regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(b) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, regarding the duration of emergency regulations, any regulations adopted by the director in order to implement this section shall remain in effect until February 1, 1986, or until the adoption of regulations under Section 11836, if before February 1, 1986.

SEC. 8. (a) Section 1.1 of this bill incorporates amendments to Section 1505 of the Health and Safety Code proposed by both this bill and SB 1754. It shall only become operative if (1) both bills are enacted and become effective January 1, 1985, (2) each bill amends Section 1505 of the Health and Safety Code, and (3) AB 469 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1754, in which case Sections 1, 1.2, and 1.3 of this bill shall not become operative.

(b) Section 1.2 of this bill incorporates amendments to Section 1505 of the Health and Safety Code proposed by both this bill and AB 469. It shall only become operative if (1) both bills are enacted and become effective January 1, 1985, (2) each bill amends Section 1505 of the Health and Safety Code, (3) SB 1754 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 469 in which case Sections 1, 1.1, and 1.3 of this bill shall not become operative.

(c) Section 1.3 of this bill incorporates amendments to Section 1505 of the Health and Safety Code proposed by this bill, SB 1754, and AB 469. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1985, (2) all three bills amend Section 1505 of the Health and Safety Code, (3) this bill is enacted after SB 1754 and AB 469, in which case Sections 1, 1.1, and 1.2 of this bill shall not become operative.

CHAPTER 1668

An act to amend Sections 56140 and 56170 of, and to add and repeal Section 56170.5 of, the Education Code, relating to education.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 56140 of the Education Code is amended to read:

56140. County offices shall do all of the following:

(a) Initiate and submit to the superintendent a countywide plan

for special education which demonstrates the coordination of all local plans submitted pursuant to Section 56200 and which ensures that all individuals with exceptional needs will have access to appropriate special education programs and related services. However, a county office shall not be required to submit a countywide plan when all the districts within the county elect to submit a single local plan.

(b) Within 45 days, approve or disapprove any proposed local plan submitted by a district or group of districts within the county or counties. Such approval shall be based on the capacity of the district or districts to ensure that special education programs and services are provided to all individuals with exceptional needs.

(1) If approved, the county office shall submit the plan with comments and recommendations to the superintendent.

(2) If disapproved, the county office shall return the plan with comments and recommendations to the district. This district may immediately appeal to the superintendent to overrule the county office's disapproval. The superintendent shall make a decision on such an appeal within 30 days of receipt of the appeal.

(3) A local plan may not be implemented without approval of the plan by the county office or a decision by the superintendent to overrule the disapproval of the county office.

(c) Participate in the state onsite review of the district's implementation of an approved local plan.

(d) Join with districts in the county which elect to submit a plan or plans pursuant to subdivision (c) of Section 56170. Any such plan may include more than one county, and districts located in more than one county. Nothing in this subdivision shall be construed to limit the authority of a county office to enter into other agreements with these districts and other districts to provide services relating to the education of individuals with exceptional needs.

SEC. 2. Section 56170 of the Education Code is amended to read:

56170. The governing board of a school district shall elect to do one of the following:

(a) If of sufficient size and scope, under standards adopted by the board, submit to the superintendent, in accordance with Section 56200, a local plan for the education of all individuals with exceptional needs residing in the district.

(b) In conjunction with one or more districts, submit to the superintendent, in accordance with Section 56200, a local plan for the education of individuals with exceptional needs residing in those districts. The plan shall, through joint powers agreements or other contractual agreements, include all the following:

(1) Provision of a governance structure and any necessary administrative support to implement the plan.

(2) Establishment of a system for determining the responsibility of participating agencies for the education of each individual with exceptional needs residing within the special education services region.

(3) Designation of a responsible local agency or alternative

administrative entity to perform such functions as the receipt and distribution of regionalized services funds, provision of administrative support, and coordination of the implementation of the plan. Any participating agency may perform any of the services required by the plan.

(c) Join with the county office, to submit to the superintendent a plan in accordance with Section 56200 to assure access to special education and services for all individuals with exceptional needs residing in the geographic area served by the plan. The county office shall coordinate the implementation of such plan, unless otherwise specified in the plan. Such plan shall, through contractual agreements, include all of the following:

(1) Establishment of a system for determining the responsibility of participating agencies for the education of each individual with exceptional needs residing within the geographical area served by the plan.

(2) Designation of the county office, of a responsible local agency, or of any other administrative entity to perform such functions as the receipt and distribution of regionalized services funds, provision of administrative support, and coordination of the implementation of the plan. Any participating agency may perform any of these services required by the plan.

(d) The service area covered by the local plan developed under subdivision (a), (b), or (c) shall be known as the special education local plan area.

(e) Nothing in this section shall be construed to limit the authority of any county office and any school district or group of school districts to enter into contractual agreements for services relating to the education of individuals with exceptional needs.

SEC. 3. Section 56170.5 is added to the Education Code, to read:

56170.5. (a) On a pilot project basis, the Superintendent of Public Instruction may select one high school district, one elementary school district, and one unified school district which has an average daily attendance of 9,000 or more within Orange County to be exempt from the size and scope requirement of subdivision (a) of Section 56170. The districts selected to participate in the pilot project may elect to submit a local plan for the education of all individuals with exceptional needs residing in that school district in accordance with subdivision (a) of Section 56170.

(b) If a district participating in the pilot project pursuant to subdivision (a) has special education facilities constructed under the provisions of Section 16196, that facility shall serve severely handicapped pupils from other districts within the region which that facility had previously served. These pupils shall be served with the funding provided by state formula without additional charge to the district where the pupil resides. The district of the pupil's residence shall transfer to the district with the facility instructional personnel service units for pupils placed pursuant to this provision in accordance with the agreements for the transfers that existed in the

1982–83 fiscal year, unless a superseding agreement is adopted.

(c) Any district selected to participate in the pilot project which elects to implement a local plan pursuant to subdivision (a) shall submit the plan to the Superintendent of Public Instruction by January 15 of the year of withdrawal from the special education services region.

(d) This section shall remain in effect only until June 30, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before June 30, 1987, deletes or extends that date.

SEC. 4. (a) The State Department of Education shall evaluate the effects of eliminating the size and scope requirements pursuant to Section 56170.5 of the Education Code, and shall report to the Legislature on the results of this evaluation on or before November 1, 1985, and again, thereafter, on or before January 1, 1987. The evaluation shall include, but not be limited to, the following:

(1) The impact on services to individuals with exceptional needs residing in the districts participating in the pilot study and residing in the geographic areas of the regions from which the participating districts withdrew.

(2) The impact on parent and pupil due process.

(3) The impact on special education costs, including, administrative costs.

(b) In addition to the evaluation required in subdivision (a), the report due on or before November 1, 1985, shall include an evaluation of the statewide effect of current size and scope requirements and special education governance structures. This evaluation shall consider, but shall not be limited to considering, the following:

(1) Services to individuals with exceptional needs.

(2) Parent and pupil due process rights.

(3) Special education costs, including administrative costs.

(4) Whether services are provided in an efficient and effective manner.

(c) The department shall conduct the studies required in subdivisions (a) and (b) using existing resources.

(d) If the Superintendent of Public Instruction finds that the level of service to individuals with exceptional needs has declined in any of the geographic areas identified in paragraph (1) of subdivision (a) as a result of a district's implementation of Section 56170.5, the district shall be notified by the superintendent, and on July 1 following this notification, the school district shall rejoin the region from which it withdrew.

CHAPTER 1669

An act to add Section 33204.2 to the Public Resources Code, relating to the Santa Monica Mountains Conservancy.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 33204.2 is added to the Public Resources Code, to read:

33204.2. (a) The conservancy may award grants to nonprofit organizations qualified as exempt organizations under Section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. Sec. 501(c)(3)) to carry out improvements, maintenance, acquisitions, or educational interpretation programs which directly relate to a project which the conservancy is otherwise authorized to undertake pursuant to this division.

(b) Grants awarded pursuant to this section are subject to the review and approval of the Department of General Services. The conservancy shall not award a grant under this section for a project that is not for the purposes specified in subdivision (a). No nonprofit organization has any authority to expend any portion of a grant to engage in any activity not expressly authorized pursuant to subdivision (a).

(c) The executive director shall submit a notice to the Department of Finance 30 days prior to award of a grant under this section. The notice shall specify the recipient organization, the amount to be granted, and the purposes for which the grant is awarded. The period for notice under this subdivision may be concurrent with the review of the Department of General Services under subdivision (b).

CHAPTER 1670

An act to add and repeal Chapter 2 (commencing with Section 15905) of Part 12 of Division 3 of Title 2 of the Government Code, relating to economic development, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Chapter 2 (commencing with Section 15905) is added to Part 12 of Division 3 of Title 2 of the Government Code, to

read:

CHAPTER 2. JOB DEVELOPMENT ACT OF 1984

Article 1. Legislative Findings and Declarations

15905. The Legislature declares that creating the general conditions under which growth in employment may take place is one of the highest priorities of the 1984–85 Regular Session of the Legislature. Expanding useful employment opportunities and creating new jobs in California may be promoted best by encouraging businesses and industry to locate and expand their operations within the state. Establishing an effective and efficient method for attracting business and industry to the state, and assisting them to locate or expand in the state, will have a salutary effect on California's economy and will result in more jobs for Californians.

15906. It is the intent of the Legislature in enacting this chapter to create a more positive climate for business in California, establish an active state policy to attract industry to the state, create permanent jobs, provide coordination among business representatives and state entities, authorize a single official to represent the state in discussions with businesses and industries considering locating, expanding, or remaining in California.

It is the further intent of the Legislature to provide a flexible means to mobilize available resources of state government for the purpose of enhancing commerce and job creation within California.

Article 2. Governor's Secretary for Job Development

15907. This chapter shall be known and may be cited as the Job Development Act of 1984.

15908. The Governor shall designate an existing cabinet secretary who has been confirmed by the Senate and shall be known, for purposes of this chapter, as the Governor's Secretary for Job Development. The secretary shall, in addition to his or her assigned duties, be responsible for carrying out the purposes of this chapter.

15909. The secretary shall have the following duties:

(a) To serve as the state's primary representative for attracting businesses to, and retaining businesses within, the state.

(b) To develop information on business opportunities in the state and to provide the information to persons or corporations who request it.

(c) To ensure that agencies in the executive branch that have information on business opportunities in the state provide it in a timely manner to persons or corporations requesting it.

(d) To meet with persons or corporations who are considering locating, expanding, remaining in the state to define their needs and identify problems they will face.

(e) To assist business to determine the legal and administrative

requirements they will face in locating or expanding in the state.

(f) To ensure that state agencies responsible for processing permits, licenses, certificates, registrations, or any other form of authorization required by law before a business may locate or expand in the state provide specific and accurate information to businesses that request it.

(g) To seek the assistance and cooperation of industry, labor, the federal government and local government for the purpose of revitalizing business development and job creation in California.

15910. (a) To accomplish the purposes of this chapter, the secretary may request the assistance of all or part of any state programs which have been created to promote the state's economic development, provide assistance to businesses and industry, encourage growth in employment or productivity, assist in the provision of housing, provide transportation services, and construct appropriate transportation facilities and other public improvements.

(b) The secretary may coordinate the activities of the departments or agencies in the executive branch of state government as he or she deems necessary and advisable to accomplish the specific purposes of this chapter. The secretary may not request any state agency to take any action or make any decision relating to a program the agency administers which:

(1) The state agency is not authorized by state or federal law to take or make.

(2) Would require the state agency to act or make a decision in a manner or by a method not authorized by law or prohibited by law.

(3) Is not consistent with the statutory obligations of the state agency.

(c) All departments and agencies in the executive branch of state government shall exercise their powers in a manner consistent with this chapter. They shall cooperate with the secretary as necessary to accomplish the purposes of this chapter.

15911. The secretary may do all of the following:

(a) Act as liaison between the Governor's office, state agencies, and businesses interested in locating in, relocating to, or expanding within, the state.

(b) Coordinate with state agencies and departments in the executive branch for the purposes of resolving issues and policy conflicts among state, local, federal, and private entities.

(c) Hold public hearings and appoint technical committees to assist him or her in carrying out his or her duties and responsibilities.

(d) Obtain from any unit in the executive branch of government such available information as he or she considers necessary to better carry out his or her responsibilities. Upon authorization by the Governor, he or she may direct a state agency to develop any information he or she believes is necessary to carry out his or her responsibilities, if the information is not otherwise available. The directive shall not, however, be deemed to be a proper authorization, if the state agency receiving the directive is not otherwise authorized

by law to collect, develop or disclose the information.

(e) Request the preparation of reports by state agencies on subjects pertaining to business issues and concerns which he or she determines need special study. State agencies requested to prepare these studies shall respond to the secretary's requests within the period of time established by the secretary.

(f) Appear before boards, commissions, departments, or other agencies of local, state, or federal government.

(g) Prepare economic development plans as provided in Section 15912 with persons or corporations who desire to locate or expand their operations in the state. These plans may include, but are not limited to, describing the use of available job training programs, loans, management assistance, educational training, and other resources which may be made available under current state laws and programs.

(h) Negotiate with state agencies the interagency agreements described in the economic development plan prepared pursuant to Section 15912.

(i) Make and execute contracts and all other instruments necessary or convenient for the exercise of his or her powers and functions under this chapter with any governmental agency, private corporation or other entity, or individual, and with any local public entity for the purposes of this chapter.

(j) Accept gifts, grants, or loans of funds or property or financial or other aid from any federal or state agency or private source, and to comply with conditions thereof not contrary to law.

(k) Do any and all things necessary to carry out the purposes and exercise the powers expressly granted by this chapter.

15912. The secretary may work with a person or corporation who wishes to locate, expand, or retain a business or industrial operation in the state to prepare an economic development plan. The economic development plan may contain a description of, but need not be limited to, any or all of the following commitments and understandings:

(a) The scope of the enterprise that the person or corporation with whom the economic development plan has been prepared expects to establish in the state. The description of the scope of the enterprise shall include all of the following:

(1) The type of business or industrial activity the person or corporation will engage in.

(2) The amounts of short- and long-term investment the person or corporation plans to make in the state.

(3) The number of permanent jobs which will be created.

(4) The number of construction jobs which will be created if the person or corporation intends to build a new, or expand an existing, facility.

(5) An estimate of the jobs which indirectly may be created in the state as a result of the purchase of goods, services, supplies, equipment, and raw materials by the person or corporation from

other California businesses.

(b) A comprehensive and specific listing of all the licenses, certificates, registrations, permits, or any other form of authorization that are applicable to the type of business to which the economic development plan applies and that will be required by state agencies, in order for the business to locate and expand its operations within the state.

(c) A schedule that the business desiring to locate, expand, or retain its operations within the state may follow in making applications for required state licenses, certificates, registrations, permits, or other forms of authorization. The schedule may set out the order in which the applications will be made, the dates by which the business will provide the information that public agencies need in order to process the applications, and the dates by which public agencies will act to either approve or disapprove the applications.

The schedule may include accelerated dates for the consideration of applications which reflect the commitment of public agencies to give the applications priority. Notwithstanding Chapter 3 (commencing with Section 15374) of Part 6.7 and Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7, the secretary may, after approval of the public agency involved, commit a public agency to act on an application for a license, certificate, registration, permit, or other form of authorization within time periods shorter than required by Sections 65950 and 65952 or shorter than the minimum time period set out in regulations adopted by a public agency pursuant to Section 15376. It shall not be lawful to, and the secretary may not, include in the schedule an accelerated time period for the consideration of an application if the accelerated time period is inconsistent with, or in conflict with, a time period, or series of time periods set by statute for the consideration of the application, or if the accelerated time period is inconsistent with, or in conflict with, statutes, rules, regulations, or policies, standards, or guidelines which require any of the following:

(1) Other agencies, interested persons, or the public be given adequate notice of the application.

(2) Other agencies be given a role in, or be allowed to participate in, the decision to approve or disapprove the application.

(3) Interested persons or the public be provided the opportunity to challenge, comment on, or otherwise voice their concerns regarding the application.

(d) A listing of interagency agreements that could assist the person or corporation in conducting its operations within the state. The interagency agreements may include, but need not be limited to, agreements to provide or coordinate necessary types of manpower training or other educational services, the provision of assistance or planning for suitable housing for the business' employees, the joint and simultaneous consideration by two or more state agencies of applications for various types of licenses, certificates, registrations, permits, or other forms of authorization

that are required to locate and operate the business, and other services state agencies are authorized by law to provide.

(e) A listing of permits or other forms of authorization that are required by local or regional governments and a specification of the assistance that the secretary or state agencies will provide to aid the business in complying with these requirements.

15913. The economic development plan prepared by the secretary and a person or corporation pursuant to Section 15912 shall not be deemed to be a contract, but shall constitute a good faith pledge on the part of the state to undertake the commitments and understandings included in the plan. The economic development plan shall not be deemed to create any obligation, debt, or liability against the state, the secretary, or any state agency or to create any right, privilege, or special consideration. A failure by the state, the secretary, or a state agency or corporation to comply with, or undertake, any or all of the commitments and understandings in the plan, shall not constitute a basis for the presentation of any claim to the State Board of Control pursuant to Section 905.2, or a cause of action in any administrative or judicial proceeding.

15914. The Governor may assign such other employees in the various offices in the Governor's office, or in civil service exempt positions in the various executive branch departments, to assist the secretary for such periods of time as are necessary to enable the secretary to carry out his or her responsibilities.

15915. The secretary shall submit to the Governor and to the Legislature an annual report not later than December 31. The report shall describe the activities of the secretary during the year and shall report on the numbers of jobs which have been created, and the amount of investment which has occurred in the state as a result of his or her activities. The secretary may, where appropriate, make recommendations for changes in state law which would lead to the creation of useful employment and the expansion of business opportunities.

15916. Nothing in this chapter shall be construed as authorizing the secretary to require any of the following:

(a) Any action by any agency whose primary function is service to the Legislature or to the judicial branch of government, or any agency that is administered by an elective officer. An agency that is administered by an elective officer includes the State Board of Equalization, but not a board or commission on which an elective officer serves in an ex officio capacity.

(b) Any state agency to develop, collect, make public, or otherwise disseminate any information that the agency is prohibited by law from developing, collecting, making public, or otherwise disseminating.

15917. It is the intent of the Legislature that the implementation of this chapter shall not result in any additional cost to state government.

15918. This chapter shall remain in effect only until December

31, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before December 31, 1986, deletes or extends that date.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to meet the urgent need for economic and job development efforts in California, it is necessary that this act go into effect immediately.

CHAPTER 1671

An act to amend Sections 4452, 4800, 5122, and 5132 of, to add headings to Chapter 1 (commencing with Section 5100), Article 1 (commencing with Section 5100) and Article 2 (commencing with Section 5104) of Chapter 1, Chapter 2 (commencing with Section 5107), Chapter 4 (commencing with Section 5125), Chapter 5 (commencing with Section 5129), Chapter 6 (commencing with Section 5133), and Chapter 7 (commencing with Section 5138) of, and to add Chapter 3 (commencing with Section 5120.010) to, Title 8 of Part 5 of Division 4 of, to add an article heading immediately preceding Section 5122 of, and to repeal Sections 199, 5116, 5120, 5121, 5123, 5127.5, and 5127.6 of, the Civil Code, and to add Section 706.109 to the Code of Civil Procedure, relating to family law.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 199 of the Civil Code is repealed.

SEC. 2. Section 4452 of the Civil Code is amended to read:

4452. Whenever a determination is made that a marriage is void or voidable and the court finds that either party or both parties believed in good faith that the marriage was valid, the court shall declare the party or parties to have the status of a putative spouse, and, if the division of property is in issue, shall divide, in accordance with Section 4800, that property acquired during the union which would have been community property or quasi-community property if the union had not been void or voidable. The property shall be termed "quasi-marital property". If the court expressly reserves jurisdiction, it may make the property division at a time subsequent to the judgment. The property so divided is liable for debts of the parties to the same extent as if the property had been community property or quasi-community property.

SEC. 3. Section 4800 of the Civil Code is amended to read:

4800. (a) Except upon the written agreement of the parties, or

on oral stipulation of the parties in open court, the court shall, either in its judgment of dissolution of the marriage, in its judgment decreeing the legal separation of the parties, or at a later time if it expressly reserves jurisdiction to make such a property division, divide the community property and the quasi-community property of the parties equally. For purposes of making this division, the court shall value the assets and liabilities as near as practicable to the time of trial, except that, upon 30 days' notice by the moving party to the other party, the court for good cause shown may value all or any portion of the assets and liabilities at a date after separation and prior to trial to accomplish an equal division of the community property and the quasi-community property of the parties in an equitable manner.

(b) Notwithstanding subdivision (a), the court may divide the community property and quasi-community property of the parties as follows:

(1) Where economic circumstances warrant, the court may award any asset to one party on such conditions as it deems proper to effect a substantially equal division of the property.

(2) As an additional award or offset against existing property, the court may award, from a party's share, any sum it determines to have been deliberately misappropriated by the party to the exclusion of the community property or quasi-community property interest of the other party.

(3) If the net value of the community property and quasi-community property is less than five thousand dollars ($5,000) and one party cannot be located through the exercise of reasonable diligence, the court may award all such property to the other party on such conditions as it deems proper in its judgment decreeing the dissolution of the marriage or in its judgment decreeing the legal separation of the parties.

(4) Educational loans shall be assigned to the spouse receiving the education in the absence of extraordinary circumstances rendering such an assignment unjust.

(5) In assigning the liabilities to the parties, the court shall take into consideration such factors as the earning capacity of, and the exempt character of assets awarded to, the party to whom a liability is assigned so as to protect the rights of the creditors to the extent practical, provided that, after deduction of the liabilities assigned to a party from the assets awarded to the party, the net division of the community and quasi-community property is equal, subject to any limitations provided by statute. Nothing in this subdivision shall be construed to limit the authority of the court to make an equitable assignment of liabilities in a case in which the liabilities exceed the assets of the marriage.

(c) Notwithstanding the provisions of subdivision (a), community property personal injury damages shall be assigned to the party who suffered the injuries unless the court, after taking into account the economic condition and needs of each party, the time that has

elapsed since the recovery of the damages or the accrual of the cause of action, and all other facts of the case, determines that the interests of justice require another disposition. In such a case, the community property personal injury damages shall be assigned to the respective parties in such proportions as the court determines to be just, except that at least one-half of the damages shall be assigned to the party who suffered the injuries. As used in this subdivision, "community property personal injury damages" means all money or other property received or to be received by a person in satisfaction of a judgment for damages for his or her personal injuries or pursuant to an agreement for the settlement or compromise of a claim for the damages, if the cause of action for the damages arose during the marriage but is not separate property as defined in Section 5126, unless the money or other property has been commingled with other community property.

(d) The court may make such orders as it deems necessary to carry out the purposes of this section.

SEC. 4. A chapter and article heading are added immediately preceding Section 5100 of the Civil Code, to read:

CHAPTER 1. GENERAL PROVISIONS

Article 1. Relation of Husband and Wife

SEC. 5. An article heading is added immediately preceding Section 5104 of the Civil Code, to read:

Article 2. Property Rights

SEC. 6. A chapter heading is added immediately preceding Section 5107 of the Civil Code, to read:

CHAPTER 2. CHARACTERIZATION OF MARITAL PROPERTY

SEC. 7. Section 5116 of the Civil Code is repealed.

SEC. 8. Section 5120 of the Civil Code is repealed.

SEC. 9. Chapter 3 (commencing with Section 5120.010) is added to Title 8 of Part 5 of Division 4 of the Civil Code, to read:

CHAPTER 3. LIABILITY OF MARITAL PROPERTY

Article 1. Definitions

5120.010. Unless the provision or context otherwise requires, the definitions contained in this article govern the construction of this chapter.

5120.020. "Community property" includes:

(a) Real property situated in another state that would be community property if situated in this state.

(b) Quasi-community property.

5120.030. "Debt" means an obligation incurred by a married person before or during marriage, whether based on contract, tort, or otherwise.

5120.040. A debt is "incurred" at the following time:

(a) In the case of a contract, at the time the contract is made.

(b) In the case of a tort, at the time the tort occurs.

(c) In other cases, at the time the obligation arises.

Article 2. General Rules of Liability

5120.110. (a) Except as otherwise expressly provided by statute, the community property is liable for a debt incurred by either spouse before or during marriage, regardless which spouse has the management and control of the property and regardless whether one or both spouses are parties to the debt or to a judgment for the debt.

(b) The earnings of a married person during marriage are not liable for a debt incurred by the person's spouse before marriage. The earnings remain not liable if they are held uncommingled in a deposit account by or in the name of the married person, to the extent they can be traced in the manner prescribed by statute for tracing funds exempt from enforcement of a money judgment. As used in this subdivision, "deposit account" has the meaning prescribed in Section 9105 of the Commercial Code, and "earnings" means compensation for personal services performed, whether as an employee or otherwise.

5120.120. For the purposes of this chapter, quasi-community property is liable to the same extent, and shall be treated the same in all other respects, as community property.

5120.130. (a) The separate property of a married person is liable for a debt incurred by the person before or during marriage.

(b) Except as otherwise provided by statute:

(1) The separate property of a married person is not liable for a debt incurred by the person's spouse before or during marriage.

(2) The joinder or consent of a married person to an encumbrance of community property to secure payment of a debt incurred by the person's spouse does not subject the person's separate property to liability for the debt unless the person also incurred the debt.

5120.140. (a) Notwithstanding the provisions of Section 5120.130, a married person is personally liable for the following debts incurred by the person's spouse during marriage:

(1) A debt incurred for necessaries of life of the person's spouse while the spouses are living together.

(2) Except as provided in Section 5131, a debt incurred for common necessaries of life of the person's spouse while the spouses are living separately.

(b) The separate property of a married person may be applied to the satisfaction of a debt for which the person is personally liable

pursuant to this section. If separate property is so applied at a time when nonexempt community property or separate property of the person's spouse is available but is not applied to the satisfaction of the debt, the married person is entitled to reimbursement to the extent the property was available.

5120.150. (a) For the purpose of this chapter, a child or spousal support obligation of a married person that does not arise out of the marriage shall be treated as a debt incurred before marriage, regardless whether a court order for support is made or modified before or during marriage and regardless whether any installment payment on the obligation accrues before or during marriage.

(b) Whether the earnings of a married person during marriage are liable for a child support obligation of the person's spouse that does not arise out of the marriage shall not be determined by this chapter but by the law in effect immediately before the operative date of this chapter.

(c) If community property is applied to the satisfaction of a child or spousal support obligation of a married person that does not arise out of the marriage, at a time when nonexempt separate income of the person is available but is not applied to the satisfaction of the obligation, the community is entitled to reimbursement from the person in the amount of the separate income, not exceeding the community property so applied.

(d) Nothing in this section limits the matters a court may take into consideration in determining or modifying the amount of a support order including, but not limited to, the earnings of the spouses of the parties.

5120.160. (a) Notwithstanding any other provision of this article, after division of community and quasi-community property pursuant to Section 4800:

(1) The separate property owned by a married person at the time of the division and the property received by the person in the division is liable for a debt incurred by the person before or during marriage and the person is personally liable for the debt, whether or not the debt was assigned for payment by the person's spouse in the division.

(2) The separate property owned by a married person at the time of the division and the property received by the person in the division is not liable for a debt incurred by the person's spouse before or during marriage, and the person is not personally liable for the debt, unless the debt was assigned for payment by the person in the division of the property. Nothing in this paragraph affects the liability of property for the satisfaction of a lien on the property.

(3) The separate property owned by a married person at the time of the division and the property received by the person in the division is liable for a debt incurred by the person's spouse before or during marriage, and the person is personally liable for the debt, if the debt was assigned for payment by the person in the division of the property. If a money judgment for the debt is entered after the

division, the property is not subject to enforcement of the judgment and the judgment may not be enforced against the married person, unless the person is made a party to the judgment for the purpose of this paragraph.

(b) If property of a married person is applied to the satisfaction of a money judgment pursuant to subdivision (a) for a debt incurred by the person that is assigned for payment by the person's spouse, the person has a right of reimbursement from the person's spouse to the extent of the property applied, with interest at the legal rate, and may recover reasonable attorney's fees incurred in enforcing the right of reimbursement.

Article 3. Reimbursement

5120.210. A right of reimbursement provided by this chapter is subject to the following provisions:

(a) The right arises regardless which spouse applies the property to the satisfaction of the debt, regardless whether the property is applied to the satisfaction of the debt voluntarily or involuntarily, and regardless whether the debt to which the property is applied is satisfied in whole or in part. The right is subject to an express written waiver of the right by the spouse in whose favor the right arises.

(b) The measure of reimbursement is the value of the property or interest in property at the time the right arises.

(c) The right shall be exercised not later than the earlier of the following times:

(1) Within three years after the spouse in whose favor the right arises has actual knowledge of the application of the property to the satisfaction of the debt.

(2) In proceedings for division of community and quasi-community property pursuant to Section 4800 or in proceedings upon the death of a spouse.

Article 4. Transitional Provisions

5120.310. As used in this article, "operative date" means January 1, 1985.

5120.320. Except as otherwise provided by statute, the provisions of this chapter govern the liability of separate and community property and the personal liability of a married person for a debt enforced on or after the operative date of this chapter, regardless whether the debt was incurred before, on, or after the operative date.

5120.330. (a) The provisions of this chapter that govern reimbursement apply to all debts, regardless whether satisfied before, on, or after the operative date of this chapter.

(b) If the time within which a reimbursement right provided by this chapter must be exercised expires before, on, or within one year after the operative date of this chapter pursuant to paragraph (1) of

subdivision (c) of Section 5120.210, the time prescribed in paragraph (1) of subdivision (c) of Section 5120.210 is extended until one year after the operative date.

SEC. 10. Section 5121 of the Civil Code is repealed.

SEC. 10.5. An article heading is added immediately preceding Section 5122 of the Civil Code, to read:

Article 5. Liability for Death or Injury

SEC. 11. Section 5122 of the Civil Code is amended to read:

5122. (a) A married person is not liable for any injury or damage caused by the other spouse except in cases where he or she would be liable therefor if the marriage did not exist.

(b) The liability of a married person for death or injury to person or property shall be satisfied as follows:

(1) If the liability of the married person is based upon an act or omission which occurred while the married person was performing an activity for the benefit of the community, the liability shall first be satisfied from the community property and second from the separate property of the married person.

(2) If the liability of the married person is not based upon an act or omission which occurred while the married person was performing an activity for the benefit of the community, the liability shall first be satisfied from the separate property of the married person and second from the community property.

(c) This section does not apply to the extent the liability is satisfied out of proceeds of insurance for the liability, whether the proceeds are community property or separate property. Notwithstanding Section 5120.210, no right of reimbursement under this section shall be exercised more than seven years after the spouse in whose favor the right arises has actual knowledge of the application of the property to the satisfaction of the debt.

SEC. 12. Section 5123 of the Civil Code is repealed.

SEC. 13. A chapter heading is added immediately preceding Section 5125 of the Civil Code, to read:

CHAPTER 4. MANAGEMENT AND CONTROL OF MARITAL PROPERTY

SEC. 14. Section 5127.5 of the Civil Code is repealed.

SEC. 15. Section 5127.6 of the Civil Code is repealed.

SEC. 16. A chapter heading is added immediately preceding Section 5129 of the Civil Code, to read:

CHAPTER 5. SUPPORT

SEC. 17. Section 5132 of the Civil Code is amended to read:

5132. Subject to Section 5120.140, a married person shall support the person's spouse while they are living together out of the separate

property of the person when there is no community property or quasi-community property. For the purposes of this section, the terms "quasi-community property" and "separate property" have the meanings given those terms by Sections 4803 and 4804.

SEC. 18. A chapter heading is added immediately preceding Section 5133 of the Civil Code, to read:

CHAPTER 6. PREMARITAL AGREEMENTS

SEC. 19. A chapter heading is added immediately preceding Section 5138 of the Civil Code, to read:

CHAPTER 7. MISCELLANEOUS PROVISIONS

SEC. 20. Section 706.109 is added to the Code of Civil Procedure, to read:

706.109. An earnings withholding order may not be issued against the earnings of the spouse of the judgment debtor except by court order upon noticed motion.

SEC. 21. Section 5120.110 is added to the Civil Code, to read:

5120.110. (a) Except as otherwise expressly provided by statute, the community property is liable for a debt incurred by either spouse before or during marriage, regardless which spouse has the management and control of the property and regardless whether one or both spouses are parties to the debt or to a judgment for the debt.

(b) The earnings of a married person during marriage are not liable for a debt incurred by the person's spouse before marriage. After the earnings of the married person are paid, they remain not liable so long as they are held in a deposit account in which the person's spouse has no right of withdrawal and are uncommingled with other community property, except property insignificant in amount. As used in this subdivision, "deposit account" has the meaning prescribed in Section 9105 of the Commercial Code, and "earnings" means compensation for personal services performed, whether as an employee or otherwise.

SEC. 22. Section 5120.150 is added to the Civil Code, to read:

5120.150. (a) For the purpose of this chapter, a child or spousal support obligation of a married person that does not arise out of the marriage shall be treated as a debt incurred before marriage, regardless whether a court order for support is made or modified before or during marriage and regardless whether any installment payment on the obligation accrues before or during marriage.

(b) If community property is applied to the satisfaction of a child or spousal support obligation of a married person that does not arise out of the marriage, at a time when nonexempt separate income of the person is available but is not applied to the satisfaction of the obligation, the community is entitled to reimbursement from the person in the amount of the separate income, not exceeding the

community property so applied.

(c) Nothing in this section limits the matters a court may take into consideration in determining or modifying the amount of a support order, including, but not limited to, the earnings of the spouses of the parties.

SEC. 23. Section 4800 of the Civil Code is amended to read:

4800. (a) Except upon the written agreement of the parties, or on oral stipulation of the parties in open court, the court shall, either in its judgment of dissolution of the marriage, in its judgment decreeing the legal separation of the parties, or at a later time if it expressly reserves jurisdiction to make such a property division, divide the community property and the quasi-community property of the parties equally. For purposes of making this division, the court shall value the assets and liabilities as near as practicable to the time of trial, except that, upon 30 days' notice by the moving party to the other party, the court for good cause shown may value all or any portion of the assets and liabilities at a date after separation and prior to trial to accomplish an equal division of the community property and the quasi-community property of the parties in an equitable manner.

(b) Notwithstanding subdivision (a), the court may divide the community property and quasi-community property of the parties as follows:

(1) Where economic circumstances warrant, the court may award any asset to one party on such conditions as it deems proper to effect a substantially equal division of the property.

(2) As an additional award or offset against existing property, the court may award, from a party's share, any sum it determines to have been deliberately misappropriated by the party to the exclusion of the community property or quasi-community property interest of the other party.

(3) If the net value of the community property and quasi-community property is less than five thousand dollars ($5,000) and one party cannot be located through the exercise of reasonable diligence, the court may award all such property to the other party on such conditions as it deems proper in its judgment decreeing the dissolution of the marriage or in its judgment decreeing the legal separation of the parties.

(4) In assigning the liabilities to the parties, the court shall take into consideration such factors as the earning capacity of, and the exempt character of assets awarded to, the party to whom a liability is assigned so as to protect the rights of the creditors to the extent practical, provided that, after deduction of the liabilities assigned to a party from the assets awarded to the party, the net division of the community and quasi-community property is equal, subject to any limitations provided by statute. Nothing in this subdivision shall be construed to limit the authority of the court to make an equitable assignment of liabilities in a case in which the liabilities exceed the assets of the marriage.

(c) Notwithstanding subdivision (a), community property personal injury damages shall be assigned to the party who suffered the injuries unless the court, after taking into account the economic condition and needs of each party, the time that has elapsed since the recovery of the damages or the accrual of the cause of action, and all other facts of the case, determines that the interests of justice require another disposition. In such a case, the community property personal injury damages shall be assigned to the respective parties in such proportions as the court determines to be just, except that at least one-half of the damages shall be assigned to the party who suffered the injuries. As used in this subdivision, "community property personal injury damages" means all money or other property received or to be received by a person in satisfaction of a judgment for damages for his or her personal injuries or pursuant to an agreement for the settlement or compromise of a claim for the damages, if the cause of action for the damages arose during the marriage but is not separate property as defined in Section 5126, unless the money or other property has been commingled with other community property.

(d) The court may make such orders as it deems necessary to carry out the purposes of this section.

SEC. 24. Sections 21 and 22 of this act shall be operative only if Assembly Bill 3472 is enacted and becomes effective on January 1, 1985, and this bill is enacted after Assembly Bill 3472, in which case the Sections 5120.110 and 5120.150 that would be added to the Civil Code by Section 9 of this act shall not become operative.

SEC. 25. Section 23 of this bill incorporates amendments to Section 4800 of the Civil Code proposed by both this bill and Assembly Bill 3000. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 4800 of the Civil Code, and (3) this bill is enacted after Assembly Bill 3000, in which case Section 3 of this bill shall not become operative.

CHAPTER 1672

An act to amend Section 9401 of, to add Section 9409.5 to, and to repeal and add Section 9410 of, the Government Code, relating to legislative committees.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 9401 of the Government Code is amended to read:

9401. A subpoena requiring the attendance of any witness before

the Senate, Assembly, or a committee may be issued by the President of the Senate, Speaker of the Assembly, or the chairman of any committee before whom the attendance of the witness is desired if permission has been secured from the Rules Committee of the respective house.

SEC. 1.5. Section 9409.5 is added to the Government Code, to read:

9409.5. No witness is privileged to refuse to testify to any fact, or to produce any paper, respecting which he or she shall be examined by the Senate, Assembly, or a committee, upon the ground that the testimony to the fact or the production of the paper may tend to disgrace the witness or otherwise render the witness infamous.

SEC. 2. Section 9410 of the Government Code is repealed.

SEC. 3. Section 9410 is added to the Government Code, to read:

9410. (a) Whenever a witness refuses, on the basis of his or her privilege against self-incrimination, to testify or provide other information before the Senate, Assembly, or a committee, and the person presiding over the proceeding communicates to the witness that the witness is required to testify, the witness may not refuse to testify on the basis of his or her privilege against self-incrimination. However, the person cannot be held to answer criminally or be subject criminally to any penalty or forfeiture for any fact or act touching which he or she is required to testify. No statement made or paper produced by the witness is competent evidence in any criminal proceeding against the witness except in a prosecution for perjury or contempt.

(b) A person may be sworn to testify under penalty of perjury without the immunity conferred pursuant to subdivision (a), if all the following conditions are met:

(1) The following statement is read or otherwise communicated to the person:

"Section 9410 of the Government Code provides that a person sworn and examined before the Senate, Assembly, or a legislative committee cannot be held to answer criminally or be subject criminally to any penalty or forfeiture for any fact or act touching which he or she is required to testify, other than for perjury committed in testifying or contempt.

"However, this committee (or house, if applicable) will not require your testimony. The committee (house) does not wish to be placed in a position where it can be claimed that you received immunity from any possible criminal prosecution because of your testimony before the committee (house).

"Because you are not being given immunity from criminal prosecution, you have a constitutional right to refuse to testify before this committee (house). If you desire to waive this right and to testify voluntarily, you will be given that opportunity subject to all the following conditions:

(A) "If you do not wish to answer any question, you will so state.

(B) "In the absence of such a statement, your answer to each

question will be entirely voluntary.

(C) "If you choose to testify, you will be sworn under oath and will be therefore subject to criminal prosecution for perjury committed in testifying.

"If you choose to so testify voluntarily, you are reminded that any self-incriminating statements you make can be used against you in criminal proceedings."

(2) After the statement quoted in paragraph (1) is communicated to the witness, he or she answers the following questions in the affirmative:

"Do you understand these statements regarding your rights before this committee (house)?"

"Do you wish to testify voluntarily under the conditions presented?"

(c) The consent to testify and subsequent testimony pursuant to paragraph (1) of subdivision (b) constitute a knowing waiver of the person's constitutional privilege against self-incrimination.

CHAPTER 1673

An act to amend Section 25192 of, and to add and repeal Article 8.3 (commencing with Section 25197) of Chapter 6.5 of Division 20 of, the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 25192 of the Health and Safety Code is amended to read:

25192. (a) All civil and criminal penalties collected pursuant to this chapter shall be apportioned in the following manner:

(1) Fifty percent shall be deposited in the Hazardous Waste Control Account in the General Fund.

(2) Twenty-five percent shall be paid to the office of the city attorney, district attorney, or Attorney General, whichever office brought the action.

(3) Twenty-five percent shall be paid to the department and used to fund the activity of the local health officers to enforce the provisions of this chapter pursuant to Section 25180.

(b) If a reward is paid to a person pursuant to Section 25191.7, the amount of the reward shall be deducted from the amount of the civil penalty before the amount is apportioned pursuant to subdivision (a).

SEC. 2. Article 8.3 (commencing with Section 25197) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 8.3. Hazardous Waste Enforcement Coordinator and Strike Force

25197. (a) The Legislature hereby finds and declares as follows:

(1) The United States Environmental Protection Agency has estimated that 90 percent of the 9 to 10 million metric tons of hazardous waste produced in California each year is improperly disposed.

(2) Approximately 50 percent of California's drinking water comes from underground water supplies which are highly susceptible to contamination from hazardous waste.

(3) Prosecution for violators of hazardous waste laws requires a specialized team of investigators and attorneys to detect, investigate, and prosecute these violators.

(b) It is, therefore, the intent of the Legislature in enacting this article that the enforcement coordinator provide assistance, when necessary, to local prosecutors lacking the resources to prosecute complex cases involving hazardous waste violators.

25197.1. (a) The Governor shall establish a Hazardous Waste Enforcement Unit within the State Department of Health Services and shall appoint an enforcement coordinator to administer that unit and carry out the duties specified in subdivision (b).

(b) The enforcement coordinator shall do all of the following:

(1) Provide assistance and coordination to city attorneys and district attorneys in the prosecution of persons violating this chapter and any other law or regulation relating to hazardous waste.

(2) Provide training and assistance to city attorneys and county district attorneys in the enforcement of this chapter.

(3) Make recommendations of persons to be awarded payment pursuant to Section 25191.7.

(4) Make annual recommendations to the Governor and the Legislature of statutory changes to increase the capability of city attorneys and district attorneys to prosecute violations of this chapter.

(c) Nothing in this article limits the authority of a city attorney, district attorney, or the Attorney General to investigate or prosecute violations of hazardous waste laws or regulations.

(d) Nothing in this article limits the authority of the department or any agency specified in subdivision (a) of Section 25197.2 to request that a civil or criminal action be brought by a city attorney, district attorney, or the Attorney General under any other law or regulation.

25197.2. (a) The department shall establish a statewide Hazardous Waste Strike Force which shall consist of a representative from each of the following agencies:

(1) The Department of Transportation.

(2) The Department of Industrial Relations.

(3) The Department of Food and Agriculture.

(4) The State Water Resources Control Board.

(5) The State Air Resources Board.
(6) The Department of the California Highway Patrol.
(7) The State Fire Marshal.
(8) The California Waste Management Board.
(9) The Department of Fish and Game.
(10) The Department of Forestry.
(11) The Office of Emergency Services.

(b) The director, or the director's designee, shall direct and coordinate the activities of the Hazardous Waste Strike Force.

(c) The Hazardous Waste Strike Force shall do all of the following:

(1) Establish a standardized program between the agencies represented on the Hazardous Waste Strike Force for the purposes of uniformly enforcing state hazardous waste statutes and regulations and reporting violators of these statutes and regulations.

(2) Develop a program to coordinate and publicize the statewide 24-hour phone numbers which are available to the public for reporting information concerning violations of this chapter and any other hazardous waste statutes and regulations.

25197.3. (a) This article shall be funded from the department's existing resources.

(b) This article shall remain in effect only until January 1, 1988, and on that date is repealed unless a later enacted statute which is enacted before January 1, 1988, deletes or extends that date.

CHAPTER 1674

An act relating to fiscal affairs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. The Legislature finds and declares that counties are utilizing general purpose revenue in greater proportions in order to meet the matching requirements of federal- and state-mandated programs. These requirements ignore the impact of high unemployment and other extenuating factors which cause the growth in the county matching funds requirement to far exceed its growth, if any, in general purpose revenues. Counties have been forced to use discretionary funds to meet the matching requirements and, therefore, have had to make undesirable spending reductions in essential services like law enforcement, fire protection, streets and roads maintenance programs, and personnel costs not related to the mandated programs.

Further, it is the intent of the Legislature that the one-time appropriation contained in Section 2 of this act recognizes and is

consistent with the fiscal and programmatic relationships and responsibilities between the state and counties as they involve funding and program delivery of partnership programs.

SEC. 2. The sum of four million five hundred seventy-nine thousand and thirty-one dollars ($4,579,031) is hereby appropriated from the General Fund to the Controller to be distributed on or before November 1, 1984, in accordance with the following schedule:

Schedule:

(a) County of Butte	325,365
(b) County of Calaveras	24,561
(c) County of Del Norte	98,841
(d) County of Fresno	1,000,000
(e) County of Glenn	19,075
(f) County of Imperial	41,644
(g) County of Kings	47,297
(h) County of Lake	59,591
(i) County of Merced	538,166
(j) County of San Benito	14,993
(k) County of San Joaquin	1,000,000
(*l*) County of Shasta	75,256
(m) County of Siskiyou	185,229
(n) County of Stanislaus	340,703
(o) County of Sutter	9,649
(p) County of Tehama	67,918
(q) County of Trinity	45,157
(r) County of Tulare	549,396
(s) County of Tuolumne	73,757
(t) County of Yuba	62,433

SEC. 3. The counties shall utilize the funds appropriated in the schedule contained in Section 2 of this act in order to meet expenditures set forth in their 1984–85 final budgets.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

County general purpose revenues are being spent in greater proportions to meet the matching requirements of federal- and state-mandated programs. These requirements ignore the impact of high unemployment and other extenuating factors which cause the growth in the county matching funds requirement to far exceed its growth in general purpose revenues. Counties have been forced to use discretionary funds to meet the matching requirements and, therefore, have had to make undesirable spending reductions in essential services like law enforcement, fire protection, streets and roads maintenance programs, and personnel costs not related to the mandated programs. In order to alleviate these problems at the earliest possible time, it is necessary that this act

take effect immediately.

CHAPTER 1675

An act to amend Sections 60602 and 60603 of, and to amend and repeal Section 60608 of, the Education Code, relating to schools.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 60602 of the Education Code is amended to read:

60602. As used in this chapter:

(a) "Achievement test" means any standardized test which measures or attempts to measure the level of performance which a pupil has attained in one or more courses of study. It shall include (1) tests in basic skills courses administered annually and (2) tests in content courses administered from time to time as designated by the State Board of Education.

(b) "Physical fitness test" means any test which addresses body structure and composition, and cardiovascular, musculoskeletal, and neuromuscular functions.

(c) "Testing program" means the systematic achievement testing of all pupils in grades 3, 6, 8, 10, and 12, and the health-related physical fitness testing of all pupils in any three grades designated by the State Board of Education, required by this chapter in all schools within each school district by means of tests designated by the State Board of Education.

(d) "Basic skills courses" means those subjects which involve, among other skills, memorization and mastery of specific functions, including, but not limited to, reading, spelling, basic mathematics, and effectiveness of written expression.

(e) "Content courses" means those subjects which require the integration of factual matter, logical analysis, the solution by the student of posed problems, and the communication of ideas, including, but not limited to, literature, history, advanced mathematics, and science.

SEC. 2. Section 60603 of the Education Code is amended to read:

60603. The State Board of Education shall:

(a) Require a testing program in all school districts.

(b) Require the State Department of Education to submit and recommend achievement tests to the State Board of Education for approval and adoption. The adopted tests shall be printed or purchased and distributed to the various school districts in the state by the State Department of Education.

(c) The State Board of Education shall develop a testing method

that will obtain an accurate estimate of statewide performance, school district performance, and school performance of pupils in grades 3, 6, 8, 10, and 12, in basic skills courses and content courses.

Under such a testing method, the State Department of Education shall annually require that each district administer a statewide test to all pupils in grades 3, 6, 8, 10, and 12. The department shall determine whether pupils in a given school shall be administered the entire test or whether the pupils shall be administered a portion of the test which will be representative of all the test objectives, goals, or categories of items on the entire test.

(d) Adopt regulations for the conduct and administration of the testing program.

The State Board of Education shall award contracts to develop achievement testing instruments to be used for the purposes of this section in reading, mathematics, and language according to competitive bidding procedures.

SEC. 3. Section 60608 of the Education Code is amended to read:

60608. Commencing with the 1986–87 school year, during either the month of March, April, or May, the governing board of each school district maintaining any grade designated by the State Board of Education pursuant to subdivision (c) of Section 60602 shall administer to each pupil in those grades a health-related physical fitness test designated by the Superintendent of Public Instruction. Each physically handicapped pupil and each pupil who is physically unable to take all of the physical fitness test shall be given as much of the test as his or her condition will permit.

Each school district shall submit to its governing board and the State Department of Education the results of its health-related physical fitness testing by July 15 of each year. The department shall compile the results of the annual testing and submit a report by September 15 of each year to the appropriate policy committee of each house of the Legislature for purposes of comparing the performance of California pupils to national norms.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date. If that date is not deleted or extended, then, on or after January 1, 1991, pursuant to Section 9611 of the Government Code, Section 60608 of the Education Code, as added by Section 2 of Chapter 1010 of the Statutes of 1976, shall have the same force and effect as if this temporary provision had not been enacted.

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

CHAPTER 1676

An act to amend Sections 5701, 5710, 5711, 5712, 5713, 5714, 5715, 5716, 5717, 5719, 5720, 5721, 5722, 5724, 5761, 5763, and 5764 of, to add Sections 5715.1, 5715.2, 5717.1, 5717.2, 5717.3, 5717.4, 5762.1, and 5762.2 to, to add Article 3 (commencing with Section 5730), Article 5 (commencing with Section 5780), Article 6 (commencing with Section 5785), and Article 7 (commencing with Section 5790) to Chapter 3.7 of Division 3 of, to repeal Section 5723 of, to repeal Article 2.5 (commencing with Section 5730), Article 3 (commencing with Section 5750), and Article 4.5 (commencing with Section 5780) of Chapter 3.7 of Division 3 of, to repeal and add Sections 5718 and 5762 of, and to repeal and add Article 4 (commencing with Section 5770) of Chapter 3.7 of Division 3 of, the Business and Professions Code, relating to auctioneers, and making an appropriation therefor.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 5701 of the Business and Professions Code is amended to read:

5701. As used in this chapter:

(a) "Advertisement" means any of the following:

(1) Any written or printed communication for the purpose of soliciting, describing, or offering to practice auctioneering or auction company services, including any brochure, pamphlet, newspaper, periodical, or publication.

(2) A telephone or other directory listing caused or permitted by a licensee to be published that indicates the licensee's offer to practice auctioneering or auction company services.

(3) A radio, television, or similar airwave transmission that solicits or offers the practice of auctioneering or auction company services.

(b) "Auction" means a sale transaction conducted by means of oral or written exchanges between an auctioneer and the members of his or her audience, which exchanges consist of a series of invitations for offers for the purchase of goods made by the auctioneer and offers to purchase made by members of the audience and culminate in the acceptance by the auctioneer of the highest or most favorable offer made by a member of the participating audience.

(c) "Auction company" means any person who arranges, manages, sponsors, advertises, accounts for the proceeds of, or carries out auction sales at locations, including, but not limited to, any fixed location, including an auction barn, gallery, place of business, sale barn, sale yard, sale pavilion, and the contiguous surroundings of each.

(d) "Auctioneer" means any individual who is engaged in, or who

by advertising or otherwise holds himself or herself out as being available to engage in, the calling for, the recognition of, and the acceptance of, offers for the purchase of goods at an auction.

(e) "Board" means the Board of Governors of the California Auctioneer Commission.

(f) "Commission" means the California Auctioneer Commission.

(g) "Employee" means an individual who works for an employer, is listed on the employer's payroll records, and is under the employer's control.

(h) "Employer" means a person who employs an individual for wages or salary, lists the individual on the person's payroll records, and withholds legally required deductions and contributions.

(i) "Executive officer" means the Executive Officer of the California Auctioneer Commission.

(j) "Goods" means any goods, wares, chattels, merchandise, or other personal property, including domestic animals and farm products.

(k) "Licensee" means any person licensed under this chapter as an auctioneer or auction company.

(*l*) "Person" means an individual, corporation, partnership, trust, including a business trust, firm, association, organization, or any other form of business enterprise.

(m) "Pocket card" means a certified copy of an auctioneer's license, issued by the commission, which shall include a photograph of the auctioneer, and which is the property of the commission.

SEC. 2. Section 5710 of the Business and Professions Code is amended to read:

5710. There is hereby created a public corporation to be known as the California Auctioneer Commission, hereinafter called "the commission."

SEC. 3. Section 5711 of the Business and Professions Code is amended to read:

5711. All persons licensed pursuant to this chapter shall be members of the commission.

SEC. 4. Section 5712 of the Business and Professions Code is amended to read:

5712. The commission has perpetual succession and a seal. It may sue and be sued. It may own property, make contracts, and do all other lawful acts necessary or expedient for the administration of its affairs.

The commission may accept gifts, bequests, and other charitable donations.

SEC. 5. Section 5713 of the Business and Professions Code is amended to read:

5713. The headquarters office of the commission shall be in the City of Sacramento, California. Branch offices may be established in other locations in California as deemed necessary by the board.

SEC. 6. Section 5714 of the Business and Professions Code is amended to read:

5714. (a) The powers conferred on the commission shall be exercised by its board of governors, hereinafter called "the board," and the board is charged with their administration.

(b) The board shall govern, control, and administer the affairs of the commission, and shall exercise all rights and powers vested in it by this chapter.

(c) The commission is invested with all duties, powers, purposes, responsibilities, and jurisdiction regarding auctions and auctioneering in California. No other agency, or political subdivision of the state, shall impose on a licensee or seller at auction any registration or license requirement or any license or employment fee or charge on account of auction activities. No provision of this subdivision or chapter prohibits any city or county, or city and county, from imposing a business license fee on a licensed auctioneer or auction company whose permanent place of business, as filed with the commission, is located in that city or county, or city and county.

SEC. 7. Section 5715 of the Business and Professions Code is amended to read:

5715. (a) The business of the commission shall be administered by the board, which shall consist of seven members. Each member of the board shall be a citizen of the United States. Except for the first members appointed to the board, three members of the board shall be licensed under this chapter and four members shall be public members.

The members of the first board appointed shall consist of three members representing the auctioneering industry and four members representing the public at large.

(b) The Governor shall appoint the first members of the board within 60 days from the effective date of this chapter and the board shall hold its first meeting within 30 days after all the initial members are appointed.

(c) Each member, except the public members, shall have at least five years of experience in auctioneering and shall be of recognized standing in his or her practice of the auctioneering business. Each member of the board shall be at least 21 years of age and shall have been a resident of this state for at least five years immediately preceding his or her appointment.

(d) The first board shall consist of seven members appointed by the Governor. Two of the industry members and two of the public members shall be appointed for a term of two years and one of the industry members and two of the public members shall be appointed for a term of four years. Thereafter, members shall be appointed for a term of four years. Before selecting the industry members of the board, the Governor shall consult with, and consider qualified candidates nominated by, individuals within, or organizations representing, the auctioneering business. Any vacancies shall be filled by appointment by the Governor for the unexpired term. Each member appointed to fill a new term or vacancy shall be a licensed auctioneer as was his or her predecessor, or a public member as was

his or her predecessor.

(e) Each member of the board shall hold office until the appointment and qualification of his or her successor or until six months have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs. Whenever the Governor has failed to appoint and qualify a member six months after the expiration of a term, or a vacancy created by other cause, the Speaker of the Assembly and President pro Tempore of the Senate, jointly, shall appoint a successor to fill the unexpired term. No individual shall serve as a member of the board for more than two consecutive terms.

(f) The Governor may remove any member of the board for misconduct, incompetency, or neglect of duty.

SEC. 8. Section 5715.1 is added to the Business and Professions Code, to read:

5715.1. There shall be a council of advisers to the board. The board shall, by rule and appointment as deemed necessary to comprehensively address matters of concern to the board, establish the number and qualifications of advisers. An adviser shall be appointed by the board, and his or her term of office shall be one year. No individual shall serve as a member of the council of advisers for more than two full consecutive terms. In any event, the board shall provide for the appointment of three members of the council of advisers representing consumer interest organizations in this state. Vacancies in the council of advisers shall be filled by the board by appointment for the unexpired term.

SEC. 9. Section 5715.2 is added to the Business and Professions Code, to read:

5715.2. The board shall hold not less than four regular meetings each fiscal year for the purpose of transacting such business as may properly come before it. Once each year, the board shall elect officers.

SEC. 10. Section 5716 of the Business and Professions Code is amended to read:

5716. The members of the board shall elect from the board membership a president, vice president, and secretary. Officers shall serve for one year or until their successors are chosen and qualify. The president shall preside at all meetings of the commission and of the board, and in the event of his or her absence or inability to act, the vice president shall preside.

SEC. 11. Section 5717 of the Business and Professions Code is amended to read:

5717. Subject to the laws of this state, the board may formulate and declare rules and regulations necessary or expedient for the carrying out of this chapter. Such rules and regulations shall be adopted in accordance with the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 12. Section 5717.1 is added to the Business and Professions

Code, to read:

5717.1. Upon enactment of this article, there is hereby created a special fund in the State Treasury, known as the Auctioneer Commission Fund. Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated for the purposes of this chapter. Any amounts remaining in the Auctioneer Commission Fund created by Chapter 1499 of the Statutes of 1982 shall be deposited into the fund created by this section. The board may make appropriations and disbursements from the Auctioneer Commission Fund to pay all necessary expenses associated with the effective performance of the duties and powers of the board. Each member of the board shall receive one hundred dollars ($100) per day and his or her necessary expenses connected with the performance of his or her duties on the board.

SEC. 13. Section 5717.2 is added to the Business and Professions Code, to read:

5717.2. The board shall appoint an executive officer for the commission. No member of the commission is eligible to serve as the executive officer.

SEC. 14. Section 5717.3 is added to the Business and Professions Code, to read:

5717.3. The board may appoint such committees, representatives, delegates, examiners, firms, and employees as it deems necessary or proper. The board may by rule provide for the assignment of duties to the executive officer, the council of advisers, committees of the council, or any other person. Committees of the council may be assigned responsibility for accepting or denying applications, preparing and grading examinations, receiving or designating complaints involving professional competence or standards of conduct and assisting the executive officer to investigate those complaints, and performing such other duties as the board may, by rule, delegate to them. Except as otherwise provided in this section, the board may fix and pay salaries, fees, and necessary expenses.

SEC. 15. Section 5717.4 is added to the Business and Professions Code, to read:

5717.4. The board shall formulate rules of professional conduct which shall be binding upon members when ratified by majority vote of the members of the commission who vote at a regular or special meeting at which all members have an opportunity to vote in person or by mail ballot.

SEC. 16. Section 5718 of the Business and Professions Code is repealed.

SEC. 17. Section 5718 is added to the Business and Professions Code, to read:

5718. The board shall appoint two Disciplinary Review Committees, hereinafter referred to as "DRCs." The DRCs shall each consist of two members who have been actively engaged in the business of auctioneering for at least three years, and one public

member. None of the members shall be members of the board. The DRCs shall meet every 60 days, or more or less frequently as may be required. Each member shall be paid fifty dollars ($50) per day and shall be reimbursed for travel expenses pursuant to Section 19820 of the Government Code. The members shall each be appointed for a term of two years, and no member may serve more than two consecutive terms. The board may remove any member of a DRC for misconduct, incompetence, or neglect of duty.

The DRCs shall perform all of the following functions:

(a) Affirm, rescind, or modify all appeals concerning administrative fines assessed by the executive officer.

(b) Affirm, rescind, or modify all appeals concerning denial of licenses issued by the executive officer, excluding any denial ordered by the board in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Upon request of the executive officer, affirm, rescind, or modify any decision by the executive officer to initiate disciplinary action against a licensee.

SEC. 18. Section 5719 of the Business and Professions Code is amended to read:

5719. Notice of all meetings of the board shall be governed by rule of the board. A majority of the board constitutes a quorum.

All meetings shall be open and public, except that the board may hold closed sessions to do any of the following:

(a) Deliberate on the decision to be reached upon evidence in a disciplinary proceeding conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Prepare, approve, grade, or administer examinations.

(c) Consider the appointment, employment, or dismissal of an employee or hear complaints or charges against the employee.

(d) Discuss matters that would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting.

(e) Consider any gifts, donations, or bequests that the donor or proposed donor has requested in writing be kept confidential.

(f) Confer with legal counsel regarding pending litigation when discussion in open session concerning those matters would adversely affect or be detrimental to the public interest. Litigation shall be considered pending when a complaint, claim, or petition for writ of mandate has been filed, or the threat of litigation is imminent in the opinion of the board.

SEC. 19. Section 5720 of the Business and Professions Code is amended to read:

5720. The board may, by regulation, define the scope of each branch of auctioneering for which licensure is provided under this chapter, and establish standards for the board's approval of schools of auctioneering.

SEC. 20. Section 5721 of the Business and Professions Code is amended to read:

5721. Any member of the board and the executive officer may each administer oaths and take testimony and evidence concerning all matters within the board's jurisdiction.

SEC. 21. Section 5722 of the Business and Professions Code is amended to read:

5722. The executive officer shall keep a complete record of all applications for licensure and the action of the board thereon and, between July 1 and December 1 of each year, shall prepare a roster showing the names, addresses, and telephone numbers of all licensees. The telephone number may be omitted from the directory upon request of the licensee.

A copy of the roster shall be filed with the Secretary of State and with the clerk of each county in the state, and a copy of the roster shall be furnished to each licensee. Copies of the roster shall be available on application to the executive officer, at a price per copy that reimburses the commission for the cost of publication.

All records of the commission shall be public records except confidential letters of reference, examination material, and investigation files.

SEC. 22. Section 5723 of the Business and Professions Code is repealed.

SEC. 23. Section 5724 of the Business and Professions Code is amended to read:

5724. Within 30 days prior to the meeting of the general session of the Legislature, the board shall submit to the Governor, the Speaker of the Assembly, and the President pro Tempore of the Senate a full and true report of their transactions during the preceding biennium, including a complete statement of the receipts and expenditures of the commission during the period. A copy of the report shall be filed with the Secretary of State.

SEC. 24. Article 2.5 (commencing with Section 5730) of Chapter 3.7 of Division 3 of the Business and Professions Code is repealed.

SEC. 25. Article 3 (commencing with Section 5750) of Chapter 3.7 of Division 3 of the Business and Professions Code is repealed.

SEC. 26. Article 3 (commencing with Section 5730) is added to Chapter 3.7 of Division 3 of the Business and Professions Code, to read:

Article 3. Licensing

5730. No individual may act as an auctioneer and no person may operate an auction company unless that individual or person holds an unexpired and otherwise valid license issued pursuant to this chapter. However, the requirements of this chapter do not apply to any of the following:

(a) An auction of goods conducted by an individual who personally owns those goods and who did not acquire the goods for

resale.

(b) An auction conducted by, on behalf of, or under the direction of, any public authority, political candidate or party, church, or charitable organization. However, if the individual conducting the sale receives compensation or, by advertising or otherwise, holds himself or herself out as being available to engage in the sale of goods at auction for compensation, that individual shall be required to hold a license pursuant to this chapter.

(c) A sale of real estate.

(d) An automobile auction regulated by the Department of Motor Vehicles. However, an individual acting as an auctioneer at any such auto auction shall hold a license as required by this chapter, unless the auctioneer is licensed as a salesman by the Department of Motor Vehicles and is employed by the auto auction.

(e) An auction of livestock in any place designated by the Secretary of the United States Department of Agriculture as a stockyard pursuant to Section 202 of Chapter 9 of Title 7 of the United States Code. The exemption provided by this subdivision shall extend to individuals acting as auctioneers at any such livestock auction only if the sale is conducted under the jurisdiction of the United States Department of Agriculture.

5731. Every individual, before acting as an auctioneer, shall obtain an auctioneer license. An individual seeking an initial license as an auctioneer shall meet all of the following requirements:

(a) Be at least 18 years of age.

(b) File with the commission a completed application on a form prescribed by the board.

(c) Pay the nonrefundable examination fee and the nonrefundable application fee specified in Section 5791.

(d) Provide proof that the applicant, or his or her employer, holds a valid seller's permit issued by the State Board of Equalization, if applicable.

(e) Provide one set of fingerprints on a form approved by the Department of Justice and pay the fee specified in Section 5791 for fingerprint processing.

(f) Provide two color photographs of passport quality of the size prescribed by the board.

(g) Pass an examination prepared by the board.

(h) File a surety bond in the amount and form prescribed in Article 3.5 (commencing with Section 5760).

(i) Pay the license fee and pocket card fee specified in Section 5791.

5732. The executive officer shall hold examinations as the board may prescribe. The examination for an auctioneer's license shall include questions on the applicant's ability to read and write, his or her ability to call bids, his or her knowledge of sale preparation, proper sale advertising and sale summary, his or her knowledge of mathematics and accounting principles, and his or her knowledge of the provisions of this chapter, the commission's regulations, and

other laws relating to auctioneering and auction company services, including, but not limited to, the Commercial Code, the Penal Code, the Vehicle Code, and other applicable state laws.

5733. An applicant who fails to pass the initial examination may, upon payment of the reexamination fee specified in Section 5791, apply for reexamination on a form prescribed by the board.

5733.5. If an applicant fails to complete his or her application within one year after it has been filed, or fails to take the examination within a one-year period after becoming eligible therefor, the application shall be considered to be abandoned. An application submitted after the abandonment of a former application shall be treated as a new application and shall be required to meet all of the requirements for an initial license.

5734. The board may waive the requirement that a nonresident applicant pass an examination if the nonresident applicant complies with all of the following:

(a) Is licensed or registered to act as an auctioneer by the state of his or her domicile.

(b) That state's requirements for licensing or registration are at least as stringent, in the opinion of the board, as those in effect in California, and the applicant meets all the other requirements set forth in Section 5731.

(c) Submits with his or her application a duly certified letter of certification issued by the licensing board of his or her domiciliary state.

(d) Includes with his or her application an irrevocable consent that actions may be commenced against him or her. The consent shall stipulate that service of process or pleadings on the board shall be taken and held in all courts as valid and binding as if service of process had been made upon the applicant personally within this state. If any process or pleading mentioned in this subdivision is served upon the board, it shall be by duplicate copies. One of the duplicate copies shall be filed in the Sacramento office of the commission and one shall be immediately forwarded by the executive officer by registered or certified mail to the applicant against whom the process or pleadings are directed.

5735. (a) Upon compliance by the applicant with the requirements of Section 5731 except subdivision (g), the board may issue a temporary permit authorizing the applicant to practice auctioneering, pending the results of the first licensing examination administered after the date of application.

(b) If the applicant passes the examination, the temporary permit shall remain in effect if the applicant pays the pocket card fee and license fee specified in Section 5791 within 30 days' notice of passage. If the applicant fails the examination or fails to pay the pocket card fee and license fee specified in Section 5791 within 30 days of notice of passage, the temporary permit shall terminate upon notice thereof to the applicant by certified mail, return receipt requested, or, if the applicant fails to receive the notice, upon the date specified in the

temporary permit.

5735.5. Upon written application, the board may reissue a temporary permit to any individual who, in the judgment of the board, has been excusably delayed in completing his or her application. The board may not reissue a temporary permit more than twice to any one individual within a five-year period.

5736. A temporary permit has the same effect as a license and subjects the permittee to the same obligations as if he or she had obtained a license under this chapter. However, a temporary permitholder shall not be a member of the commission, nor shall he or she be listed in the roster.

5737. Upon the request of an applicant, an examination may be scheduled on a date other than the date of a regularly scheduled examination, provided that the applicant pays the fee for a special examination specified in Section 5791 in addition to the cost of all facilities and services necessary for the administration of the examination.

5738. Every person, before operating an auction company, shall obtain an auction company license. This provision does not apply to an individual who is a licensed auctioneer and operates an auction company as a sole proprietorship. A person seeking an initial license as an auction company shall meet all of the following requirements:

(a) File with the commission a completed application on a form prescribed by the board.

(b) Pay a nonrefundable application fee in the amount specified in Section 5791.

(c) File a surety bond in the amount and form prescribed in Article 3.5 (commencing with Section 5760).

(d) Provide proof that the applicant holds a valid seller's permit issued by the State Board of Equalization.

(e) Provide one set of fingerprints for each owner, partner, or officer, as applicable, on a form approved by the Department of Justice, and pay the fee specified in Section 5791 for the processing of each set of fingerprints except for any such owner, officer, or partner who is a licensed auctioneer.

5738.5. Each owner, partner, or officer of an auction company may apply for a pocket card by providing two color photographs of passport quality of the size prescribed by the board and paying the pocket card fee specified in Section 5791.

5739. The board shall issue an auction company license to each nonresident applicant who complies with the requirements of Section 5738 and includes with his or her application an irrevocable consent that actions may be commenced against him, her, or them. The consent shall stipulate that service of process or pleadings on the board shall be taken and held in all courts as valid and binding as if service of process had been made upon the applicant personally within this state. If any process or pleading mentioned in this subdivision is served upon the board, it shall be by duplicate copies. One of the duplicate copies shall be filed in the Sacramento office of

the commission and one shall be immediately forwarded by the executive officer by registered or certified mail to the person against whom the process or pleadings are directed.

5740. The Department of Justice shall notify the board of all misdemeanor and felony convictions of each applicant.

5741. Upon the receipt of a completed application, the executive officer shall verify the truthfulness of the information contained in the application. The board shall issue a license, in such form as it may prescribe, to each person who meets all of the requirements for licensing and pays the appropriate fees, unless cause exists under Section 5777 to deny the license.

5742. Auctioneer and auction company licenses shall expire at 12 midnight on June 30 of every even-numbered year, unless renewed before that date. Neither license nor renewal fees shall be prorated for those licenses issued at any time prior to the renewal date.

5743. An applicant for renewal of an auctioneer or auction company license shall meet all of the following requirements:

(a) File with the commission a completed application on a form prescribed by the board.

(b) Pay the license renewal fee specified in Section 5791.

(c) Satisfy the executive officer that a surety bond in the amount and form prescribed in Article 3.5 (commencing with Section 5760) is in full force and effect.

(d) Provide two color photographs of passport quality of the size prescribed by the board and pay the pocket card fee specified in Section 5791. Auction company owners, partners, and officers may, but are not required to, comply with the requirements of this subdivision.

5744. Once a license has expired, it may be reinstated not more than one year after the date of expiration upon payment of the renewal fee plus the sum of fifty dollars ($50). If the license has been expired for a period of more than one year, the applicant must file for and meet all of the requirements for an initial license, including passage of the examination, if applicable.

5745. Upon the receipt of notification from the executive officer of the expiration of any license under this chapter, the holder of the license shall cease to display the certificate of license and to wear the pocket card, and shall immediately return the certificate and pocket card to the executive officer.

5746. Each person holding a valid auctioneer, auction house, or auction company license on December 31, 1984, is exempt from the requirements for an initial license set forth in Section 5731. Each such auction house license shall be equivalent, as of January 1, 1985, to an auction company license.

5747. Any licensee who wishes to conduct an auction company under a name other than, or in addition to, that on record with the commission shall, within 30 days of the change or addition, pay the fee specified in Section 5791.

SEC. 27. Section 5761 of the Business and Professions Code is

amended to read:

5761. Every person who applies for an auction company license shall, as a condition to the granting and the retention thereof, file or have on file with the executive officer a bond in the amount of ten thousand dollars ($10,000) that meets the requirements contained in Section 5763.

SEC. 28. Section 5762 of the Business and Professions Code is repealed.

SEC. 29. Section 5762 is added to the Business and Professions Code, to read:

5762. (a) In lieu of the bond required by this article, there may be deposited with the commission any of the following:

(1) Lawful money of the United States. The money shall be maintained by the executive officer in an interest-bearing trust account.

(2) Certificates of deposit payable to the executive officer, not exceeding the federally insured amount, issued by banks authorized to do business in this state and insured by the Federal Deposit Insurance Corporation or by savings and loan associations authorized to do business in this state and insured by the Federal Savings and Loan Insurance Corporation.

(3) Savings accounts assigned to the executive officer, not exceeding the federally insured amount, together with evidence of the deposit of the savings accounts with banks authorized to do business in this state and insured by the Federal Deposit Insurance Corporation.

(4) Investment certificates or share accounts assigned to the executive officer, not exceeding the federally insured amount, issued by savings and loan associations authorized to do business in this state and insured by the Federal Savings and Loan Insurance Corporation.

(5) Certificates for funds or share accounts assigned to the executive officer, not exceeding the guaranteed amount, issued by a credit union, as defined in Section 14002 of the Financial Code, whose share deposits are guaranteed by the National Credit Union Administration or guaranteed by any other agency approved by the Department of Corporations.

(b) The deposit shall be in an amount or have a face value equal to or in excess of ten thousand dollars ($10,000).

(c) The deposit shall be accompanied by an agreement executed by the depositor authorizing the executive officer to collect, sell, or otherwise apply the deposit to enforce the liability of the depositor on the deposit. The agreement shall include the address at which the depositor may be served with notices, papers, and other documents under this chapter.

(d) The board may prescribe terms and conditions to implement this section.

SEC. 30. Section 5762.1 is added to the Business and Professions Code, to read:

5762.1. All instruments and certificates representing any deposit

made under Section 5762 shall be filed by the depositor with the executive officer.

SEC. 31. Section 5762.2 is added to the Business and Professions Code, to read:

5762.2. All obligations and remedies specified in this article relating to bonds apply to all deposits made pursuant to Section 5762.

SEC. 32. Section 5763 of the Business and Professions Code is amended to read:

5763. (a) The State of California shall be the obligee under the bond.

(b) The bond shall comply with all of the following:

(1) Be executed by the person seeking the license as principal and by a corporate surety, licensed to do business in this state, as surety.

(2) Be in such form and contain such terms and conditions as the board prescribes.

(3) Be conditioned upon the faithful performance of all obligations of a licensee under this chapter and the regulations, including the obligation to account for and pay over moneys and proceeds to persons who are entitled to them.

(4) Be effective from the date of filing with the executive officer, shall not be affected by the expiration of the license, and shall continue in full force and effect until canceled, provided that the total and aggregate liability of the surety on a bond shall be limited to the amount specified in the bond and the continuous nature of the bond shall in no event be construed as allowing the liability of the surety under a bond to accumulate for each successive license period during which the bond is in force.

(c) (1) A licensee may not cancel a bond without the prior written approval of the board and its approval of a substitute bond so as to provide continuous bonding of the licensee's activities.

(2) The surety on a bond may cancel a bond filed under this chapter only after the expiration of 30 days from the date the surety mails a notice of intent to cancel, by registered or certified mail, return receipt requested, to the commission and to the principal on the bond.

(3) Not later than the date upon which a bond cancellation becomes effective, the licensee shall give written notice to the commission that a new bond has been obtained, and shall file the new bond with the executive officer, in order to provide continuous bond coverage of the licensee's activities. Failure to provide this notice and to file a new bond shall result in the automatic revocation of the license. A license revoked pursuant to this subdivision may be reinstated only by filing a bond as provided in this article and paying a reinstatement fee in the amount of one hundred dollars ($100).

(d) The bond shall at all times reflect the name of the licensee as shown in the records of the commission. Failure to provide a new or amended bond within 30 days following a change in the name of the licensee shall result in the automatic revocation of the license. A license revoked pursuant to this subdivision may only be reinstated

by filing a new or amended bond as provided in this article and paying a reinstatement fee in the amount of one hundred dollars ($100).

(e) No action shall be brought upon any bond after the expiration of three years from the accrual of the cause of action. The executive officer shall keep each bond on file for a period of three years following termination of the bond.

SEC. 33. Section 5764 of the Business and Professions Code is amended to read:

5764. (a) If any licensee fails, or is alleged to have failed, to comply with subdivision (m), (o), (p), or (q) of Section 5775, or subdivision (*l*) of Section 5777, the board may hold a hearing and determine whether there has been such a failure, determine those persons who are proved claimants under the bond, and, if appropriate, distribute the bond proceeds to the proven claimants.

(b) Actions upon the bond and the right to payment under the bond shall extend solely to the board; however, if the board has not initiated action under the bond by scheduling and holding a hearing, by litigation or otherwise, within 60 days of a written request to do so, any claimant may initiate an action in a superior court in this state to require the board to take action.

(c) If, upon a hearing, the board determines that proved claims exceed the amount of the bond proceeds, the proceeds shall be prorated among proved claimants in the ratio that the amount of each proved claim bears to the total amount of all proved claims.

(d) The determination of the board as to the fact and the amount of liability under the bond and the amount distributed to the claimants under the bond shall be binding upon the principal and surety of the bond.

(e) All hearings held under this section shall be held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) The existence of the bond and the bond recovery procedure shall in no way affect or alter any other right or remedy that any person or the board may have under applicable law.

(g) Upon a hearing held under this article wherein the total of all claims is less than the total of the sum of the bond, the board may order that the remainder of the bond proceeds, or any portion thereof, be paid to the commission as reimbursement for administrative and investigative expenses incurred by the commission, including amounts charged to the commission by the Department of Justice and the Office of Administrative Hearings, in bringing the action upon the bond.

SEC. 34. Article 4 (commencing with Section 5770) of Chapter 3.7 of Division 3 of the Business and Professions Code is repealed.

SEC. 35. Article 4 (commencing with Section 5770) is added to Chapter 3.7 of Division 3 of the Business and Professions Code, to read:

Article 4. Conduct of Business and Prohibited Acts

5770. The board and the executive officer shall have the power, duty, and authority to investigate all violations of this chapter and of the regulations of the board. It is the duty of the executive officer, under the direction of the board, to seek compliance of all persons with the provisions of this chapter.

5771. A violation of this chapter may result in the assessment of an administrative fine, a claim upon the surety bond or deposit of cash or other funds, the initiation of disciplinary action, as specified in Article 3.5 (commencing with Section 5760), Article 5 (commencing with Section 5780), and Article 6 (commencing with Section 5785), or any other remedy provided by law.

5772. (a) The superior court for the county in which any person has engaged or is about to engage in any act that constitutes a violation of this chapter may, upon a petition filed by the board or any other person, issue an injunction or other appropriate order restraining the violative conduct. Proceedings under this subdivision shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that no undertaking shall be required.

(b) The superior court for the county in which any person has engaged in any act that constitutes a violation of this chapter may, upon a petition filed by the board or any other person, order the person who committed the violation to make restitution to any person injured as a result of the violation.

(c) The court may order any person against whom an injunction or restraining order pursuant to subdivision (a), or an order requiring restitution pursuant to subdivision (b), is directed, to reimburse the petitioning board for expenses incurred by the board in its investigation related to its petition.

(d) The remedies set forth in this section are in addition to, and not a limitation on, the authority provided for in any other section of this code.

5772.5. Any person who violates any provision of this chapter, who conspires with another to violate any provision of this chapter, or who knowingly engages an unlicensed person or organization to perform any act or service for which a license is required by this chapter, is guilty of a misdemeanor, which offense is punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

5772.6. No person may bring or maintain any action in any court of this state for the collection of compensation for the performance of any act or service requiring a license under this chapter without alleging and proving that he or she was duly licensed at all times during the performance of the act or service.

5772.7. Any person who performs any act or service requiring a license under this chapter, but does not at the time of performance

hold a valid license, shall not receive or be entitled to receive any moneys or consideration in payment for the act or service.

5773. Upon finding a violation of any subdivision of Section 5776 by an applicant for licensure, the board may issue the license upon the condition that the applicant first pay the fine specified for a violation of that subdivision, to a maximum of one thousand dollars ($1,000).

5774. In conducting the business of auctioneering, each auctioneer and auction company, and the company's owners, partners, officers, agents, and employees, shall do all of the following:

(a) Follow all lawful requests of the owner or consignor of the goods being sold at auction with regard to the sale of those goods.

(b) Perform his or her duties so that the highest or most favorable offer made by a member of his or her audience is accepted, except to the extent that any item or sale is offered with reserve or subject to confirmation.

(c) Truthfully represent the goods to be auctioned.

(d) Otherwise perform his or her duties in accordance with the Commercial Code, the Penal Code, this chapter, the regulations of the board, and the rules of professional conduct established by the commission.

5774.1. Each auctioneer who operates his or her own auction company as a sole proprietor, and each auction company, together with its owners, partners, and officers, that employs an auctioneer, shall be responsible for all violations committed by the auctioneer or by any company employee in the conduct of auction business. An auctioneer who is employed by an auctioneer or auction company shall be responsible for all violations committed by him or her in the conduct of auction business.

5774.2. Each auctioneer and auction company, together with the company's owners, partners, and officers, that contracts with an auctioneer to perform specified auction duties shall be exempt from responsibility under this chapter for any violations of this chapter arising from the auctioneer's performance of those duties.

5774.3. An auctioneer who contracts with an auctioneer or auction company to perform specified auction duties shall be responsible for only those violations of this chapter arising from the performance of those duties.

5774.4. It is a violation of this chapter for any auctioneer or auction company, or the company's owners, partners, and officers, to direct or knowingly permit any violation of this chapter by any auctioneer employed by or under contract with that auctioneer or auction company, or by any owner, partner, officer, agent, or employee of the auction company.

5775. Every person licensed under this chapter shall do all of the following:

(a) Display his or her license, or a certified copy of the license issued by the board, in full and unobstructed view of the public at his or her principal place of business. A first violation of this

subdivision is subject to a fine of fifty dollars ($50); a second violation is subject to a fine of seventy-five dollars ($75); and a third or subsequent violation is subject to a fine of one hundred dollars ($100).

(b) Disclose his or her name, trade or business name, telephone number, and state license number, and the name and state license number of the auctioneer to be conducting the auction, if other than the licensee, in all advertising of auctions. The state license number or numbers in all such advertisements shall be preceded by the designation "State Lic. No." A first violation of this subdivision is subject to a fine of fifty dollars ($50); a second violation is subject to a fine of seventy-five dollars ($75); and a third or subsequent violation is subject to a fine of one hundred dollars ($100).

(c) Post a sign, the dimensions of which shall be at least 18 inches by 24 inches, at the main entrance to each auction, stating all of the following:

(1) That the auction is being conducted pursuant to Section 2328 of the Commercial Code, Section 535 of the Penal Code, and the provisions of the California Auctioneer and Auction Licensing Act.

(2) That all items are sold with reserve unless otherwise stated.

(3) The name and address of the California Auctioneer Commission as designated by the commission.

A first violation of this subdivision is subject to a fine of fifty dollars ($50); a second violation is subject to a fine of seventy-five dollars ($75); and a third or subsequent violation is subject to a fine of one hundred dollars ($100).

(d) Post or distribute to the audience, the terms, conditions, restrictions, and procedures whereby goods will be sold at the auction, and announce any changes to those terms, conditions, restrictions, and procedures prior to the beginning of the auction sale. A first violation of this subdivision is subject to a fine of fifty dollars ($50); a second violation is subject to a fine of one hundred dollars ($100); and a third or subsequent violation is subject to a fine of two hundred fifty dollars ($250).

(e) Have in his or her possession at the time of any auction sale a pocket card, which shall be presented upon demand to any police officer, sheriff, state official, or citizen. This requirement applies only to licensed auctioneers. A first violation of this subdivision is subject to a fine of fifty dollars ($50); a second violation is subject to a fine of seventy-five dollars ($75); and a third or subsequent violation is subject to a fine of one hundred dollars ($100).

(f) Notify the executive officer of any acquisition of an auction company, specifying the address and the trade or business name of the auction company, within 30 days of acquisition. This requirement applies only to an acquisition by a licensed auctioneer who is not required to obtain an auction company license for the auction company. A violation of this subdivision is subject to a fine of one hundred dollars ($100).

(g) Notify the executive officer of the sale, transfer, closure, or

change of address or trade or business name of any auction company for which that person holds the license, within 30 days of the sale, transfer, closure, or change. This subdivision applies only to a licensed auctioneer who is not required to obtain an auction company license for the auction company. A violation of this subdivision is subject to a fine of one hundred dollars ($100).

(h) Notify the executive officer of any change in address of record within 30 days of the change. A violation of this subdivision is subject to a fine of fifty dollars ($50).

(i) Notify the executive officer of any change in the officers of a corporate licensee within 30 days of the change. A violation of this subdivision is subject to a fine of fifty dollars ($50).

(j) Notify the executive officer of any change in the business or trade name of the licensee within 30 days of the change. A violation of this subdivision is subject to a fine of fifty dollars ($50).

(k) Keep and maintain, at the licensee's address of record, complete and correct records and accounts pertaining to the licensee's licensed activity for a period of not less than two years. The records shall include the name and address of the owner or consignor and of any buyer of goods at any auction sale engaged in or conducted by the licensee, a description of the goods, the terms and conditions of the acceptance and sale of the goods, all written contracts with owners and consignors, and accounts of all moneys received and paid out, whether on the licensee's own behalf or as agent, as a result of those activities. A first violation of this subdivision is subject to a fine of five hundred dollars ($500); and a second or subsequent violation is subject to a fine of one thousand dollars ($1,000).

(*l*) Within 30 working days after the sale transaction, provide, or cause to be provided, an account to the owner or consignor of all goods that are the subject of an auction engaged in or conducted by the licensee. A first violation of this subdivision is subject to a fine of five hundred dollars ($500); and a second or subsequent violation is subject to a fine of one thousand dollars ($1,000).

(m) Within 30 working days after a sale transaction of goods, pay or cause to be paid, all moneys and proceeds due to the owner or the consignor of all goods that were the subject of an auction engaged in or conducted by the licensee, unless delay is compelled by legal proceedings or the inability of the licensee, through no fault of his or her own, to transfer title to the goods or to comply with any provision of this chapter, the Commercial Code, the Code of Civil Procedure, or any other applicable provision of law. A first violation of this subdivision is subject to a fine of one thousand dollars ($1,000); a second violation is subject to a fine of one thousand five hundred dollars ($1,500); and a third or subsequent violation is subject to a fine of two thousand dollars ($2,000).

(n) Maintain the funds of all owners, consignors, buyers, and other clients and customers, separate from his or her personal funds and accounts. A violation of this subdivision is subject to a fine of two

hundred fifty dollars ($250).

(o) Immediately prior to offering any item for sale, disclose to the audience the existence and amount of any liens or other encumbrances on the item, unless the item is sold as free and clear. For the purposes of this subdivision, an item is "free and clear" if all liens and encumbrances on the item are to be paid prior to the transfer of title. A violation of this subdivision is subject to a fine of two hundred fifty dollars ($250), in addition to the requirement that the buyer be refunded, upon demand, the amount paid for any item that is the subject of the violation.

(p) Within two working days after an auction sale, return the blank check or deposit of each buyer who purchased no goods at the sale. A first violation of this subdivision is subject to a fine of one hundred dollars ($100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars ($250).

(q) Within 30 working days of any auction sale, refund that portion of the deposit of each buyer that exceeds the cost of the goods purchased, unless delay is compelled by legal proceedings, by the inability of the licensee, through no fault of his or her own, to transfer title to the goods or to comply with any provision of this chapter, the Commercial Code, the Code of Civil Procedure, or other applicable provision of law, or unless the buyer violated the terms of a written agreement that he or she take possession of purchased goods within a specified period of time. A first violation of this subdivision is subject to a fine of one hundred dollars ($100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars ($250).

5776. In addition to other requirements and prohibitions of this chapter, it is a violation of this chapter for any person to do any of the following:

(a) Fail to comply with any provision of this code, any regulation of the board, or with any provision of the Vehicle Code, the Commercial Code (including, but not limited to, Sections 2328 and 2401), the Code of Civil Procedure, the Penal Code, or any law administered by the State Board of Equalization, relating to the auctioneering business, including, but not limited to, sales and the transfer of title of goods.

(b) Give false evidence of any kind to the board, any member thereof, or the executive officer, in obtaining or renewing a license. A violation of this subdivision is subject to a fine of two hundred fifty dollars ($250).

(c) Engage in or offer to engage in any activity for which a license is required by this chapter without holding such a license. A violation of this subdivision is subject to a fine of one thousand dollars ($1,000).

(d) Represent himself or herself as, or use the title of, auctioneer or auction company, or any other title whereby the person could be reasonably understood to be practicing or offering to practice as an auctioneer or auction company, unless he or she has obtained the license or licenses required by this chapter for the activity or

activities. A violation of this subdivision is subject to a fine of one thousand dollars ($1,000).

(e) Aid or abet the activity of any other person that violates any provision of this chapter. A violation of this subdivision is subject to a fine of one thousand dollars ($1,000).

(f) Impersonate any licensee, or present or attempt to present as his or her own the license of another. A violation of this subdivision is subject to a fine of one thousand dollars ($1,000).

(g) Use or present, as if it were valid, an expired, suspended, or revoked license. A violation of this subdivision is subject to a fine of one thousand dollars ($1,000).

(h) Conduct any auction business for which a license is required as an individual, partnership, or corporation unless the person holds a valid license issued to that same individual, partnership, or corporation. A violation of this subdivision is subject to a fine of one thousand dollars ($1,000).

(i) Subvert or attempt to subvert any licensing examination or the administration of a licensing examination, including, but not limited to, any of the following:

(1) Conduct that violates the security of the examination materials: removing from the examination room any examination materials; the unauthorized photographic or other mechanical reproduction of any portion of the actual licensing examination; aiding by any means the unauthorized photographic or other mechanical reproduction of any portion of the actual licensing examination; paying or using professional or paid examination-takers for the purpose of reconstructing any portion of the licensing examination; obtaining examination questions or other examination material, except by specific authorization, either before, during, or after an examination or using or purporting to use any examination questions or materials that were improperly removed or taken from any examination for the purpose of instructing or preparing applicants for examinations; or selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered licensing examination.

(2) Conduct that violates the standard of examination administration: communicating with any other examinee during the administration of a licensing examination; copying answers from another examinee or permitting one's answers to be copied by another examinee; having in one's possession during the administration of the licensing examination any books, equipment, notes, written or printed materials, or data of any kind, other than the examination materials distributed or otherwise authorized to be in one's possession during the examination; or impersonating any examinee or having an impersonator take the licensing examination on one's behalf.

A violation of this subdivision is subject to a fine of five hundred dollars ($500).

(j) Place or use any misleading or untruthful advertising or

statements or make any substantial misrepresentation in conducting auctioneering business. A first violation of this subdivision is subject to a fine of five hundred dollars ($500); and a second or subsequent violation is subject to a fine of one thousand dollars ($1,000).

(k) Sell goods at auction before the auctioneer or auction company involved has first entered into a written contract with the owner or consignor of the goods, which contract sets forth the terms and conditions upon which the licensee accepts the goods for sale. The written contract shall include all of the following:

(1) The licensee's name, trade or business name, state license number, business address, and business telephone number.

(2) An inventory of the item or items to be sold at auction.

(3) A description of the services to be provided and the agreed consideration for the services, which description shall explicitly state which party shall be responsible for advertising and other expenses.

(4) The approximate date or dates when the item or items will be sold at auction.

(5) A statement as to which party shall be responsible for insuring the item or items against loss by theft, fire, or other means.

(6) A disclosure that the licensee is bonded to, and licensed and regulated by, the California Auctioneer Commission, and a disclosure of the commission's current address.

A first violation of this subdivision is subject to a fine of two hundred fifty dollars ($250); a second violation is subject to a fine of five hundred dollars ($500); and a third or subsequent violation is subject to a fine of one thousand dollars ($1,000).

(*l*) Sell goods at auction before the auctioneer or auction company involved has first entered into a written contract with the auctioneer who is to conduct the auction, if other than the licensee, which specifies the duties to be performed by each party. A first violation of this subdivision is subject to a fine of one hundred dollars ($100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars ($250).

(m) Fail to reduce to writing all amendments or addenda to any written contract with an owner or consignor or an auctioneer. A first violation of this subdivision is subject to a fine of one hundred dollars ($100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars ($250).

(n) Fail to abide by the terms of any written contract required by this section. A first violation of this subdivision is subject to a fine of one hundred dollars ($100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars ($250).

(o) Allow the owner, consignor, or agent thereof, of any item or items to bid on the item or items, unless the licensee has authorized the owner, consignor, or agent thereof, in writing, to bid on his or her own merchandise and the owner, consignor, or agent thereof, has indicated to the licensee, in writing, the reserve or minimum price for the item or items.

(1) The owner, consignor, or agent thereof, may bid on his or her

own merchandise provided that his or her bid does not exceed the reserve or minimum price established in writing for the item or items. If the owner, consignor, or agent thereof, bids over the reserve or minimum price established in writing for an item or items, and such a bid is challenged by the person who submitted the previous bid, the item or items shall be sold to the person who challenged the bid at the price of that person's previous bid upon his or her demand.

(2) The owner, consignor, or agent thereof, may orally or otherwise indicate to a licensee during the auction sale that an item or items may be sold for less than the reserve or minimum price previously established in writing.

A first violation of this subdivision is subject to a fine of one hundred dollars ($100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars ($250).

(p) Cause or allow any person to bid at a sale for the sole purpose of increasing the bid on any item or items being sold by the auctioneer, except as authorized by Section 2328 of the Commercial Code or any provision of this chapter. A violation includes, but is not limited to, any of the following:

(1) Stating any increased bid greater than that offered by the last highest bidder when, in fact, no person has made such a bid.

(2) The sale or offering for sale of any item or items to any owner, partner, officer, or employee of the licensee without disclosing the fact that the person is an owner, partner, officer, or employee of the licensee at each time that person first makes a bid on an item or items.

(3) Any violation of Section 535 of the Penal Code.

(q) Sell or offer to sell any item or items that were sold by the same licensee within the previous two months without disclosing the reason why the licensee again has possession of the item or items. A violation of this subdivision is subject to a fine of one hundred dollars ($100).

(r) Knowingly misrepresent the nature of any item or items to be sold at auction, including, but not limited to, age, authenticity, value, condition, or origin. A violation of this subdivision is subject to a fine of two hundred fifty dollars ($250); in addition, it shall be required that the buyer of the misrepresented item be refunded the purchase price of the item or items within 24 hours of return to the licensee of the item by the buyer, provided that the item is returned within five days after the date of the auction sale.

(s) Misrepresent the terms, conditions, restrictions, or procedures under which goods will be sold at auction. A violation of this subdivision is subject to a fine of seventy-five dollars ($75).

(t) Sell any item subject to sales tax without possessing a valid and unrevoked seller's permit from the State Board of Equalization. A violation of this subdivision is subject to a fine of five hundred dollars ($500).

5777. In addition to other requirements and prohibitions of this chapter, it is grounds for denial, suspension, or revocation of an

auctioneer or auction company license for the applicant or licensee, or any of its owners, partners, or officers, to have done any of the following:

(a) Violate any provision of Section 5776, which violation is also subject to a fine as specified in the applicable subdivisions of Section 5776.

(b) Be convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, receiving stolen property, or any similar offense substantially related to the auctioneering profession.

(c) Be adjudicated a bankrupt or make an assignment for the benefit of creditors while a licensee or within two years immediately preceding the filing of an application for a license.

SEC. 37. Article 4.5 (commencing with Section 5780) of Chapter 3.7 of Division 3 of the Business and Professions Code is repealed.

SEC. 38. Article 5 (commencing with Section 5780) is added to Chapter 3.7 of Division 3 of the Business and Professions Code, to read:

Article 5. Citations and Administrative Fines

5780. Upon finding that a violation of any provision of this chapter has occurred, the executive officer, or his or her designee, may issue citations and assess administrative fines in the amounts specified in Article 4 (commencing with Section 5770) of this chapter. The assessment of a fine shall not preclude the initiation of any disciplinary, civil, or criminal action against an applicant or licensee for the same or similar violations.

5781. Each citation and fine assessment shall be in writing and shall describe with particularity the basis for the citation. No citation or fine assessment shall be issued more than six months after discovery by the executive officer or the commission that a violation occurred.

5781.5. Each citation and fine assessment shall be served in person, or by certified mail at the last address of record of the person cited.

5781.6. Each citation and fine assessment shall inform the licensee that if he or she desires a review by a disciplinary review committee, hereinafter referred to as a "DRC," the review shall be initiated by filing a written request with the executive officer within 30 days of the issuance of the citation and fine assessment. Payment of an administrative fine does not constitute an admission of the violation charged.

5782. If a licensee fails to either request a review or to pay the assessed fine within 30 days of the issuance of the citation and fine assessment, his or her license shall be automatically suspended. A license suspended under this section may be reinstated only by payment, within one year of the issuance of the citation and fine assessment, of the assessed fine and a fee of one hundred dollars

($100).

5783. Upon review of a citation and fine assessment, a DRC may modify, rescind, or uphold the citation and fine assessment. The decision of the DRC shall be served by regular mail at the last address of record of the person cited.

5783.5. If the licensee disagrees with the decision of the DRC, he or she may request an administrative hearing within 30 days of issuance of the decision, to be held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. If the licensee fails to either request such a hearing or to pay the assessed fine as specified by the DRC within 30 days of the date of the DRC's decision, the license of the licensee shall be automatically revoked.

5784. All administrative fines collected pursuant to this article shall be deposited in the Auctioneer Commission Fund and are continuously appropriated for the purposes of enforcement, consumer and licensee education, and administration.

SEC. 39. Article 6 (commencing with Section 5785) is added to Chapter 3.7 of Division 3 of the Business and Professions Code, to read:

Article 6. Denial, Suspension, and Revocation of Licenses

5785. The board may deny, suspend, or revoke a license of any person for the violation of this chapter or any regulation of the board.

5786. Upon notice of the denial of an application, the applicant may appeal the decision to a disciplinary review committee, hereinafter referred to as a "DRC," by filing a written request for review within 30 days of the date of the notice of denial.

(a) If the applicant fails to request a review within the 30 days, the applicant may not further appeal the decision and may reapply after one year from the date of the denial.

(b) If, upon review, the DRC rescinds the denial of the application, the license shall be issued within 10 days of the decision, or within 10 days of completion of the application, whichever is later.

(c) If, upon review, the DRC upholds the denial of the application, the applicant has all of the rights and remedies prescribed in Division 1.5 (commencing with Section 475) of this code.

(d) A DRC may not review any decision ordered by the board in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

5786.4. An application may be denied without a hearing if, within one year prior to the filing of the application, the board denied an application from the same applicant upon the same ground in accordance with Section 5786.

5786.5. Notwithstanding any other provision of law, and as prescribed by regulations of the board, any person whose application is subject to denial under this chapter may be issued a license

conditioned upon those terms, conditions, and restrictions deemed necessary to protect the public, in addition to the requirements of this chapter applicable to licensees generally, for a period not to exceed two years following the issuance of the restricted license. Terms and conditions may include, but are not limited to, the prohibition of certain acts, the requirement of certain disclosures, the requirement of certain accountings or reportings to the board or others, the restriction of the scope of practice, and any other terms, conditions, or restrictions deemed necessary to protect the public, including the payment of any fine that was or could have been assessed against the applicant for a violation of any provision of this chapter.

5787. In any proceeding conducted by the board concerning the denial of an application for a license, the suspension or revocation of a license, or other disciplinary action against a person who holds a license, upon the ground that the applicant or licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of an auctioneer or auction company, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

5788. After a hearing held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, resulting in the finding of a violation by the licensee of this chapter or any regulation of the board, the board may do one or more of the following:

(a) Suspend the license of the licensee for a period not to exceed two years, and, at its discretion, allow continued activity of the licensee under specified restrictions and conditions.

(b) Revoke the license of the licensee.

(c) Order that restitution be made by the licensee to any person monetarily harmed as a result of any violation by such licensee.

(d) Assess an administration fine against the licensee in accordance with the amounts specified in this chapter, not to exceed an aggregate amount of three thousand dollars ($3,000).

(e) Order that the licensee pay all costs incurred by the commission in the course of the disciplinary action against the licensee, including the investigation.

(f) Order that a public reproval of the licensee's unlawful activities be issued in a manner specified by the board.

(g) Prohibit any individual licensee, or any owner, partner, or officer of a licensee, from engaging in any or all activities related to the auctioneering business, for a period not to exceed three years.

(h) Impose, in addition to the requirements of this chapter, any other terms, conditions, or restrictions upon a licensee as deemed necessary to protect the public, for a period not to exceed three

years.

5789. A person whose license has been revoked or who has been prohibited from engaging in any or all activities related to the auctioneering business may, not earlier than one year after the effective date of such order, apply to the board for reconsideration. The board may thereupon issue a new license for good cause or may issue a restricted license as provided in Section 5786.5.

SEC. 40. Article 7 (commencing with Section 5790) is added to Chapter 3.7 of Division 3 of the Business and Professions Code, to read:

Article 7. Revenue

5790. All fees and administrative fines received under the provisions of this chapter shall be deposited in the Auctioneer Commission Fund.

5791. Fees are fixed as follows:

(a) The nonrefundable application fee for an initial auctioneer or auction company license is thirty-five dollars ($35).

(b) The license fee for an auctioneer or auction company shall not exceed six hundred dollars ($600).

(c) The nonrefundable examination fee for an auctioneer license is fifty dollars ($50).

(d) The nonrefundable reexamination fee is thirty-five dollars ($35).

(e) The fee for the administration of an examination other than those that are regularly scheduled shall be two hundred dollars ($200), and the applicant may be required additionally to pay the cost of facilities or services necessary for the administration of such examination.

(f) The license renewal fee for an auctioneer or auction company shall not exceed six hundred dollars ($600).

(g) The fingerprint processing fee is that amount charged to the commission by the Department of Justice.

(h) The charge for a duplicate license, to replace a lost or destroyed license, is ten dollars ($10).

(i) The charge for the cost of a certified copy of any license, including any pocket card, or for the certification of any license, is ten dollars ($10).

(j) The fee for a change in the name of a licensee or for an additional name is twenty dollars ($20).

(k) The fee for processing a dishonored check is twenty dollars ($20).

5791.5. The commission may sell any publication, material, sign, or any item deemed appropriate by the board at a price that reimburses the commission for the preparation and distribution of the publication, material, sign, or item.

SEC. 41. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the

California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1677

An act to add and repeal Chapter 4.6 (commencing with Section 56460) of Part 30 of the Education Code, making an appropriation therefor, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Chapter 4.6 (commencing with Section 56460) is added to Part 30 of the Education Code, to read:

CHAPTER 4.6. AWARENESS PROGRAM

56460. The Superintendent of Public Instruction shall establish an Awareness Program to help make nonhandicapped pupils aware of the special problems encountered by individuals with exceptional needs, and how those individuals overcome their problems. The program shall be conducted as a pilot project established in up to six elementary school districts selected pursuant to Section 56461. The purposes of the Awareness Program shall be to do all of the following:

(a) To impart knowledge about individuals with exceptional needs.

(b) To minimize the isolation of individuals with exceptional needs by breaking down barriers created by lack of understanding, fear, and curiosity.

(c) To increase the awareness of nonhandicapped pupils and teachers regarding physical barriers faced by individuals with exceptional needs, including, but not limited to, architectural barriers and transportation difficulties.

(d) To demonstrate ways to increase the peer status and self-esteem of the disabled student.

56461. The superintendent shall solicit requests from elementary school districts to participate in the Awareness Program. The superintendent shall select up to six elementary school districts located in the northern, central, and southern parts of the state to participate in the Awareness Program, based upon all of the following criteria:

(a) The content and activities of the district's awareness program are designed to promote positive attitudes towards individuals with exceptional needs among other pupils by increasing their knowledge of, and experience with, individuals with exceptional needs.

(b) The program training staff includes individuals with disabilities who are experienced in providing awareness programs to nonhandicapped pupils.

(c) The district has adopted a plan to disseminate the results of the pilot program to the other elementary and secondary schools located in the district.

(d) The district's budget for the development and implementation of the awareness program shall not exceed thirty-five thousand dollars ($35,000).

56462. The Awareness Program curriculum shall include, but not be limited to, all of the following:

(a) Materials and activities to help nonhandicapped pupils become aware of their prejudices toward individuals with disabilities and to provide direct contact with disabled persons.

(b) Small group sessions with structured experiences presented by disabled persons regarding their disabilities.

(c) Multimedia presentations depicting disabled persons participating in all phases of our society.

56463. The superintendent shall develop a process for the evaluation and monitoring of the Awareness Program established in the selected districts.

56464. This chapter shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date.

SEC. 2. (a) Of the amount appropriated pursuant to Item 6100-161-001 of the Budget Act of 1984, an amount not to exceed two hundred thousand dollars ($200,000) shall be available for the purposes of the Awareness Program in the 1984–85 fiscal year.

(b) It is the intent of the Legislature that funding for the Awareness Program for the 1985–86 and 1986–87 fiscal years be provided through the Budget Act for each of those fiscal years, respectively.

SEC. 3. From the unexpended balance of the funds appropriated pursuant to Item 6100-161-001 of the Budget Act of 1982, the sum of eight hundred thousand dollars ($800,000) is hereby reappropriated and transferred to, for the augmentation of, Item 6100-006-001 of the Budget Act of 1984, for allocation by the Department of Finance for the purpose of conducting seismological tests at the state special school for the blind located in Fremont.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to insure that this act becomes operative as early as possible in the 1984–85 school year, and to begin eliminating the

social and psychological barriers that tend to separate nonhandicapped pupils from their peers who are individuals with exceptional needs, it is necessary that this act take effect immediately.

CHAPTER 1678

An act to amend Section 50740 of the Health and Safety Code, relating to housing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

I am reducing the appropriation contained in Section 3 of Senate Bill No. 2126 by reducing the appropriation contained in subparagraph (1) from $5 million to $2 million, and by deleting the appropriations contained in subparagraphs (2), (3), (4), (5), and (6).

The Rental Housing Construction Program has loaned over $9.6 million for the rehabilitation of nearly 2,000 units. Under the terms of the program's five year loans, repayments will soon begin to flow back to the state. This money can be used to fund the additional projects envisioned by this bill.

I have vetoed SB 2312 which provided the authority for an appropriation to the California Housing Partnership Corporation.

I have also vetoed SB 2313 providing the state with authority to establish a program of Technical Assistance for the purchase and rehabilitation of low income rental housing.

Finally, I vetoed SB 2138 which required the Department of Housing and Community Development to conduct a study to determine the effectiveness of various laws enacted to promote housing and construction and affordable housing. A similar study is being administratively conducted at my direction.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. The Legislature hereby finds and declares that:

(a) Over 385,000 severely dilapidated housing units, which constitute 4 percent of existing housing units, need to be replaced and approximately 875,000 housing units need to be rehabilitated.

(b) The number of rental units constructed in this state fell from 90,000 units during 1977 to 26,000 units during 1982.

(c) Approximately 1.6 million lower income renters, which constitute 18 percent of all households, pay more than 25 percent of their incomes for housing and nearly 1.1 million pay more than 35 percent of their incomes for housing.

(d) Over 650,000 persons, which is more than 7 percent of all households, live in overcrowded conditions which are threatening to their health and safety.

(e) New state moneys should be appropriated to fund existing housing programs which work successfully and to leverage

substantial sums of other public and private housing resources.

(f) New programs should be initiated to meet specific housing needs.

SEC. 2. Section 50740 of Health and Safety Code is amended to read:

50740. (a) The Rental Housing Construction Incentive Fund established in the State Treasury is hereby renamed the Rental Housing Construction Fund. Notwithstanding Section 13340 of the Government Code, all money in the fund is hereby continuously appropriated to the Department of Housing and Community Development, and, except as provided in subdivisions (b) and (c), shall be utilized for purposes of this chapter and for the purposes of Section 50775.5. All interest or other increment resulting from investment or deposit of moneys in the fund shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Moneys in the fund shall not be subject to transfer to any other fund pursuant to Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, except the Surplus Money Investment Fund.

(b) Money from the fund utilized by the agency for development costs which was repaid to the agency or disencumbered between June 30, 1982, and June 30, 1983, and any additional funds or interest which is available for encumbrance on June 30, 1983, shall be deposited in a separate account in the fund and utilized as follows:

(1) Eight million one hundred thousand dollars ($8,100,000) shall be utilized by the agency for activities authorized by Article 4.5 (commencing with Section 51180) of Chapter 5 of Part 3.

(2) Five hundred thousand dollars ($500,000) shall be transferred by the agency to the department for deposit in the Rural Community Facility Grant Fund, established pursuant to Section 6125, and utilized to carry out the program established by Chapter 11 (commencing with Section 6120) of Part 3 of Division 5.

(3) Three million dollars ($3,000,000) shall be transferred by the agency to the department and deposited in the Housing Rehabilitation Loan Fund, established pursuant to Section 50661, and utilized for making deferred payment loans for residential hotels as authorized by subdivision (b) of Section 50661 and for purposes of subdivision (c) of Section 50661.

(4) One million seven hundred thousand dollars ($1,700,000) shall be transferred by the agency to the department for deposit in the Emergency Housing and Assistance Fund, established pursuant to Section 50800.

(5) Two million five hundred thousand dollars ($2,500,000) shall be transferred by the agency to the Trustees of the California State University for deposit in the Affordable Student Housing Revolving Fund, established pursuant to Section 90087 of the Education Code, and utilized to carry out the program established by Article 3 (commencing with Section 90085) of Chapter 8 of Part 55 of the Education Code.

(6) Three hundred thousand dollars ($300,000) shall be transferred by the agency to the department and utilized to carry out the program established by Chapter 3.6 (commencing with Section 50533).

(7) Four million two hundred thousand dollars ($4,200,000) shall be transferred by the agency to the department for deposit in the annuity fund, established pursuant to Section 50738.5, and utilized for the purposes authorized by that section.

(c) An amount not to exceed four million dollars ($4,000,000) of the moneys from the fund utilized by the agency for development costs which is repaid to the agency or disencumbered on or after July 1, 1983, shall be deposited in the separate account established pursuant to subdivision (b) and utilized and apportioned in accordance with the following percentages as it becomes available:

(1) Fifty percent of the moneys shall be transferred by the agency to the department and deposited in the Housing Rehabilitation Loan Fund, established pursuant to Section 50661, and utilized for the purposes specified in paragraph (3) of subdivision (b).

(2) Twenty-five percent of the moneys shall be transferred by the agency to the department for deposit in the Emergency Housing and Assistance Fund, established pursuant to Section 50800, and utilized for the purposes specified in paragraph (4) of subdivision (b).

(3) Twenty-five percent of the moneys shall be transferred by the agency to the department for deposit in the annuity fund, established pursuant to Section 50738.5, and utilized for the purposes specified in paragraph (7) of subdivision (b).

SEC. 3. The sum of sixteen million five hundred thousand dollars ($16,500,000) is hereby appropriated from the General Fund, without regard to fiscal years, for the following purposes in accordance with the following schedule:

(1) For transfer to the Annuity Fund established pursuant to Section 50738.5 of the Health and Safety Code	$5,000,000
(2) For transfer to the Housing Rehabilitation Loan Fund established pursuant to Section 50661 of the Health and Safety Code	$8,000,000
(3) For support of the California Housing Partnership program established by Senate Bill No. 2312 of the 1983–84 Regular Session of the Legislature. This sum shall constitute, and shall be accounted for, as a loan to the corporation formed pursuant to Section 52550 of the Health and Safety Code, if that corporation is formed. The corpo-	

ration shall repay this sum to the General Fund, without interest, on or before January 1, 1990	$1,000,000
(4) For technical assistance to nonprofit housing corporations and local governments as authorized by Senate Bill No. 2313 of the 1983–84 Regular Session of the Legislature	$2,050,000
(5) For a demonstration program to develop a system for alerting appropriate officials when an owner of low-income housing decides to convert the housing to market rate rentals, as authorized by Senate Bill No. 2313 of the 1983–84 Regular Session of the Legislature	$250,000
(6) To conduct a study to determine the effectiveness of, and the degree of compliance with, specified housing laws, as authorized by Senate Bill No. 2138 of the 1983–84 Regular Session of the Legislature	$200,000

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

There is a shortage of affordable housing for low and moderate income families in California. In order to provide funds for various housing programs designed to help alleviate that shortage as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 1679

An act to amend Sections 4600, 4600.5, and 4608 of the Civil Code, relating to custody.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 4600 of the Civil Code is amended to read:

4600. (a) The Legislature finds and declares that it is the public policy of this state to assure minor children of frequent and continuing contact with both parents after the parents have separated or dissolved their marriage, and to encourage parents to share the rights and responsibilities of child rearing in order to effect

this policy.

In any proceeding where there is at issue the custody of a minor child, the court may, during the pendency of the proceeding or at any time thereafter, make such order for the custody of the child during minority as may seem necessary or proper. If a child is of sufficient age and capacity to reason so as to form an intelligent preference as to custody, the court shall consider and give due weight to the wishes of the child in making an award of custody or modification thereof. In determining the person or persons to whom custody should be awarded under paragraph (2) or (3) of subdivision (b), the court shall consider and give due weight to the nomination of a guardian of the person of the child by a parent under Article 1 (commencing with Section 1500) of Chapter 1 of Part 2 of Division 4 of the Probate Code.

(b) Custody should be awarded in the following order of preference according to the best interests of the child pursuant to Section 4608:

(1) To both parents jointly pursuant to Section 4600.5 or to either parent. In making an order for custody to either parent, the court shall consider, among other factors, which parent is more likely to allow the child or children frequent and continuing contact with the noncustodial parent, and shall not prefer a parent as custodian because of that parent's sex.

The court, in its discretion, may require the parents to submit to the court a plan for the implementation of the custody order.

(2) If to neither parent, to the person or persons in whose home the child has been living in a wholesome and stable environment.

(3) To any other person or persons deemed by the court to be suitable and able to provide adequate and proper care and guidance for the child.

(c) Before the court makes any order awarding custody to a person or persons other than a parent, without the consent of the parents, it shall make a finding that an award of custody to a parent would be detrimental to the child and the award to a nonparent is required to serve the best interests of the child. Allegations that parental custody would be detrimental to the child, other than a statement of that ultimate fact, shall not appear in the pleadings. The court may, in its discretion, exclude the public from the hearing on this issue.

SEC. 2. Section 4600.5 of the Civil Code is amended to read:

4600.5. (a) There shall be a presumption, affecting the burden of proof, that joint custody is in the best interests of a minor child subject to Section 4608 where the parents have agreed to an award of joint custody or so agree in open court at a hearing for the purpose of determining the custody of a minor child of the marriage.

(b) Upon the application of either parent, joint custody may be awarded in the discretion of the court in other cases, subject to the provisions of Section 4608. For the purpose of assisting the court in making a determination whether an award of joint custody is

appropriate under this subdivision, the court may direct that an investigation be conducted pursuant to Section 4602.

(c) Whenever a request for joint custody is granted or denied, the court, upon the request of any party, shall state in its decision the reasons for granting or denying the request. A statement that joint physical custody is, or is not, in the best interests of the child shall not be sufficient to meet the requirements of this subdivision.

(d) For the purposes of this part:

(1) "Joint custody" means joint physical custody and joint legal custody.

(2) "Sole physical custody" means that a child shall reside with and under the supervision of one parent, subject to the power of the court to order visitation.

(3) "Joint physical custody" means that each of the parents shall have significant periods of physical custody. Joint physical custody shall be shared by the parents in such a way so as to assure a child of frequent and continuing contact with both parents.

(4) "Sole legal custody" means that one parent shall have the right and the responsibility to make the decisions relating to the health, education, and welfare of a child.

(5) "Joint legal custody" means that both parents shall share the right and the responsibility to make the decisions relating to the health, education, and welfare of a child.

(e) In making an order of joint legal custody, the court shall specify the circumstances under which the consent of both parents is required to be obtained in order to exercise legal control of the child and the consequences of the failure to obtain mutual consent. In all other circumstances, either parent acting alone may exercise legal control of the child. An order of joint legal custody shall not be construed to permit an action that is inconsistent with the physical custody order unless the action is expressly authorized by the court.

(f) In making an order of joint physical custody, the court shall specify the right of each parent to the physical control of the child in sufficient detail to enable a parent deprived of that control to implement laws for relief of child snatching and kidnapping.

(g) In making an order for custody with respect to both parents, the court may award joint legal custody without awarding joint physical custody.

(h) In making an order of joint physical custody or joint legal custody, the court may specify one parent as the primary caretaker of the child and one home as the primary home of the child, for the purposes of determining eligibility for public assistance.

(i) Any order for joint custody may be modified or terminated upon the petition of one or both parents or on the court's own motion if it is shown that the best interests of the child require modification or termination of the order. The court shall state in its decision the reasons for modification or termination of the joint custody order if either parent opposes the modification or termination order.

(j) Any order for the custody of a minor child of a marriage

entered by a court in this state or any other state may, subject to the jurisdictional requirements set forth in Sections 5152 and 5163, be modified at any time to an order of joint custody in accordance with the provisions of this section.

(k) In counties having a conciliation court, the court or the parties may, at any time, pursuant to local rules of court, consult with the conciliation court for the purpose of assisting the parties to formulate a plan for implementation of the custody order or to resolve any controversy which has arisen in the implementation of a plan for custody.

(*l*) Notwithstanding any other provision of law, access to records and information pertaining to a minor child, including, but not limited to, medical, dental, and school records, shall not be denied to a parent because that parent is not the child's custodial parent.

SEC. 3. Section 4608 of the Civil Code is amended to read:

4608. In making a determination of the best interest of the child in any proceeding under this title, the court shall, among any other factors it finds relevant, consider all of the following:

(a) The health, safety, and welfare of the child.

(b) Any history of abuse against the child. As a prerequisite to the consideration of allegations of abuse, the court may require substantial independent corroboration including, but not limited to, written reports by law enforcement agencies, child protective services or other social welfare agencies, courts, medical facilities, or other public agencies or private nonprofit organizations providing services to victims of sexual assault or domestic violence. As used in this subdivision, "abuse against the child" means child abuse as defined in subdivision (g) of Section 11165 of the Penal Code.

(c) The nature and amount of contact with both parents.

CHAPTER 1680

An act to add Section 33126 to the Education Code, relating to schools, and making an appropriation therefor.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 33126 is added to the Education Code, to read:

33126. State Allocation Board, in cooperation with the Superintendent of Public Instruction, shall develop and maintain an automated school facilities inventory that is capable of indicating the statewide percentage of facility utilization and projecting school facility needs five years in advance, in order to permit the State Allocation Board to study alternative proposals for the allocation of

funds for new construction, maintenance, and rehabilitation.

SEC. 2. The sum of six hundred thousand dollars ($600,000) is hereby reappropriated to the State Allocation Board for allocation by the board, in the 1984–85 fiscal year, for the purposes of Section 33126 of the Education Code, as added by Section 1 of this act, from the amount appropriated by Section 11.10 of the Budget Act of 1984. There is hereby appropriated in the 1985–86 fiscal year and fiscal years thereafter, an amount determined by the State Allocation Board to be necessary for the continuation of the automated school facilities system.

CHAPTER 1681

An act to amend Section 84308 of, and to add Section 83123 to, the Government Code, relating to the Political Reform Act, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 83123 is added to the Government Code, to read:

83123. The commission shall establish a division of local enforcement to administer, interpret, and enforce, in accordance with the findings, declarations, purposes, and provisions of this title, those provisions relating to local government agencies as defined in Section 82041.

SEC. 2. Section 84308 of the Government Code is amended to read:

84308. (a) The definitions set forth in this subdivision shall govern the interpretation of this section.

(1) "Party" means any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use.

(2) "Participant" means any person who is not a party but who actively supports or opposes a particular decision in a proceeding involving a license, permit, or other entitlement for use and who has a financial interest in the decision, as described in Article 1 (commencing with Section 87100) of Chapter 7. A person actively supports or opposes a particular decision in a proceeding if he or she lobbies in person the officers or employees of the agency, testifies in person before the agency, or otherwise acts to influence officers of the agency.

(3) "Agency" means an agency as defined in Section 82003 except that it does not include the courts or any agency in the judicial

branch of government, local governmental agencies whose members are directly elected by the voters, the Legislature, the Board of Equalization, or constitutional officers. However, this section applies to any person who is a member of an exempted agency but is acting as a voting member of another agency.

(4) "Officer" means any elected or appointed officer of an agency, any alternate to an elected or appointed officer of an agency, and any candidate for elective office in an agency.

(5) "License, permit, or other entitlement for use" means all business, professional, trade and land use licenses and permits and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises.

(6) "Contribution" includes contributions to candidates and committees in federal, state, or local elections.

(b) No officer of an agency shall accept, solicit, or direct a contribution of two hundred fifty dollars ($250) or more, from any party, or his or her agent, or from any participant, or his or her agent, while a proceeding involving a license, permit, or other entitlement for use is pending before the agency and for three months following the date a final decision is rendered in the proceeding; provided, however, that the officer knows or has reason to know that the participant has a financial interest, as that term is used in Article 1 (commencing with Section 87100) of Chapter 7. This prohibition shall apply regardless of whether the officer accepts, solicits, or directs the contribution for himself or herself, or on behalf of any other officer, or on behalf of any candidate for office or on behalf of any committee.

(c) Prior to rendering any decision in a proceeding involving a license, permit or other entitlement for use pending before an agency, each officer of the agency who received a contribution within the preceding 12 months in an amount of two hundred fifty dollars ($250) or more from a party or from any participant shall disclose that fact on the record of the proceeding. No officer of an agency shall make, participate in making, or in any way attempt to use his or her official position to influence the decision in a proceeding involving a license, permit, or other entitlement for use pending before the agency if the officer has willfully or knowingly received a contribution in an amount of two hundred fifty dollars ($250) or more within the preceding 12 months from a party or his or her agent, or from any participant, or his or her agent; provided, however, that the officer knows or has reason to know that the participant has a financial interest in the decision, as that term is described with respect to public officials in Article 1 (commencing with Section 87100) of Chapter 7.

If an officer receives a contribution which would otherwise require disqualification under this section, returns the contribution within 30 days from the time he or she knows, or should have known, about the contribution and the proceeding involving a license, permit, or other

entitlement for use, he or she shall be permitted to participate in the proceeding.

(d) A party to a proceeding before an agency involving a license, permit, or other entitlement for use shall disclose on the record of the proceeding any contribution in an amount of two hundred fifty dollars ($250) or more made within the preceding 12 months by the party, or his or her agent, to any officer of the agency. No party, or his or her agent, to a proceeding involving a license, permit, or other entitlement for use pending before any agency and no participant, or his or her agent, in the proceeding shall make a contribution of two hundred fifty dollars ($250) or more, to any officer of that agency during the proceeding and for three months following the date a final decision is rendered by the agency in the proceeding. When a closed corporation is a party to, or a participant in, a proceeding involving a license, permit, or other entitlement for use pending before an agency, the majority shareholder is subject to the disclosure and prohibition requirements specified in subdivisions (b), (c), and this subdivision.

(e) Nothing in this section shall be construed to imply that any contribution subject to being reported under the Political Reform Act of 1974 shall not be so reported.

SEC. 2.5. The Legislature finds and declares that the provisions of this act further the purpose of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

SEC. 3. There is hereby appropriated the sum of six hundred fifty-seven thousand four hundred thirty-seven dollars ($657,437) from the General Fund to the Fair Political Practices Commission.

The Fair Political Practices Commission shall maintain enforcement of the Political Reform Act of 1974 relating to local government agencies at a workload level equal to the average workload of the 1981, 1982, and 1983 calendar years with the funds annually appropriated to the commission pursuant to Section 83122 of the Government Code. The funds appropriated by this act shall be expended by the commission to establish the division of local enforcement and for additional administration, interpretation, and enforcement of those provisions relating to local government agencies.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To ensure that the provisions of the Political Reform Act are complied with by all state and local candidates in the next general election.

CHAPTER 1682

An act to amend Section 25356 of the Health and Safety Code, relating to hazardous substances.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 25356 of the Health and Safety Code is amended to read:

25356. (a) The department shall adopt, by regulation, the criteria for the selection and for the priority ranking of sites for remedial action under this chapter. The criteria shall take into account the pertinent factors relating to the public health and the environment, which shall include, but are not limited to, potential hazards to public health and environment, the risk of fire or explosion, toxic hazards, the estimated costs of remedial action, the public health benefits resulting from the remedial action, and the criteria established pursuant to Section 105(8) of the federal act (42 U.S.C. Sec. 9605(8)).

(b) The department shall publish and revise, at least annually, a priority ranking of sites. The list shall be transmitted to the Legislature on or before January 10 of each year. The development and publication of the priority ranking of sites shall be subject to the regulations adopted under subdivision (a).

(c) The department's development and publication of the priority ranking of sites are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) Funds appropriated to the department for remedial action shall be expended in conformance with the priority ranking of sites. Funds may be expended on more than one site on the list at any one time.

CHAPTER 1683

An act to amend the heading of Article 1 (commencing with Section 31300) of Chapter 5 of Division 13 of, to amend Section 40000.19 of, and to add Section 31303 to, the Vehicle Code, relating to hazardous waste.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. The heading of Article 1 (commencing with Section 31300) of Chapter 5 of Division 13 of the Vehicle Code is amended to read:

Article 1. Hazardous Materials

SEC. 2. Section 31303 is added to the Vehicle Code, to read:

31303. (a) Except as provided in subdivision (b), the following requirements apply to the transportation of hazardous waste for which registration is required pursuant to Section 25163 of the Health and Safety Code, other than radioactive materials subject to Division 14.5 (commencing with Section 33000):

(1) Transportation from the point of origin to the appropriate waste facility shall be by the most direct route, utilizing state or interstate highways wherever possible. When transporting within a city or any other congested area, exceptions to direct routes shall be made in order to avoid congested thoroughfares, places where crowds are assembled, and residence districts as defined in Section 515. Vehicles subject to this section may also use highways which provide reasonable access to fuel, repair, rest, or food facilities that are designed and intended to accommodate commercial vehicle parking, when that access is consistent with safe vehicle operation and when the facility is within one-half road mile of identified points of entry or exit from the state or interstate highway being used.

(2) Only highways of sufficient width and load bearing capacity for the vehicle or combination of vehicles shall be used.

(3) Vehicles shall not be left unattended or parked overnight in a residence district, as defined in Section 515.

(4) When transporting hazardous waste pursuant to Section 25169.3 of the Health and Safety Code, all provisions of the waste hauler transportation safety plan, as approved by the State Department of Health Services, shall be complied with.

(5) Deviation from the routes required by this subdivision shall not be excused on the basis of operating convenience, unless in an emergency and with the concurrence of a member of the California Highway Patrol.

(b) The Department of the California Highway Patrol, after consultation with the Department of Transportation or the city or county agency with traffic control jurisdiction over a highway, may prohibit vehicles transporting hazardous waste subject to this section from using that highway if all of the following requirements are met:

(1) The highway is posted, in conformity with standards of the Department of the California Highway Patrol, by the agency having jurisdiction over the highway.

(2) The highway is included in a list of highways restricted pursuant to this subdivision published by the Department of the California Highway Patrol and available to interested parties for not

less than 14 days.

(3) The highway is appreciably less safe than a reasonable alternate highway as determined by using the "Guidelines for Applying Criteria to Designate Routes for Transporting Hazardous Materials" prepared by the Federal Highway Administration (FHWA A-IP-80-15).

(4) The restriction on the use of the highway pursuant to this subdivision is not precluded or preempted by federal law.

(5) A finding is made by the Department of the California Highway Patrol that the impact of the proposed highway restriction on surrounding jurisdictions has been considered.

The list of restricted highways developed by the Department of the California Highway Patrol shall be published by the department every six months.

(c) It is unlawful for the owner of any vehicle or the authorized agent of the owner to drive, or to direct or knowingly permit the driving of, the vehicle in violation of this section. Violation of any provision of this section is a misdemeanor punishable as follows:

(1) For a first violation, a fine not exceeding five hundred dollars ($500) or imprisonment in the county jail not exceeding 30 days, or both that fine and imprisonment.

(2) For a second violation, a fine not exceeding one thousand dollars ($1,000) or imprisonment in the county jail not exceeding 60 days, or both that fine and imprisonment.

(3) For a third or subsequent violation, a fine not exceeding two thousand five hundred dollars ($2,500) or imprisonment in the county jail not exceeding 120 days, or both that fine and imprisonment.

(d) Additionally, upon recommendation of the Department of California Highway Patrol, three or more violations of this section constitute grounds for suspension or revocation of registration or denial of an application for registration under Section 25163 of the Health and Safety Code by the State Department of Health Services. Proceedings in these cases shall be subject to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) Nothing contained in this section shall be deemed to exempt any person subject to this section from other provisions of this code.

SEC. 3. Section 40000.19 of the Vehicle Code is amended to read:

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

(a) Section 31303, relating to transportation of hazardous waste.

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

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

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

(e) Division 14.7 (commencing with Section 34001), relating to

flammable liquids.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1684

An act to amend Section 65584 of the Government Code, relating to housing.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 65584 of the Government Code is amended to read:

65584. (a) For purposes of subdivision (a) of Section 65583, a locality's share of the regional housing needs includes that share of the housing need of persons at all income levels within the area significantly affected by a jurisdiction's general plan. The distribution of regional housing needs shall, based upon available data, take into consideration market demand for housing, employment opportunities, the availability of suitable sites and public facilities, commuting patterns, type and tenure of housing need, and the housing needs of farmworkers. The distribution shall seek to avoid further impaction of localities with relatively high proportions of lower income households. Based upon data provided by the Department of Finance, in consultation with each council of government, the Department of Housing and Community Development shall determine the regional share of the statewide housing need at least two years prior to the second revision, and all subsequent revisions as required pursuant to Section 65588. Based upon data provided by the Department of Housing and Community Development relative to the statewide need for housing, each council of governments shall determine the existing and projected housing need for its region. Within 30 days following notification of this determination, the Department of Housing and Community Development shall ensure that this determination is consistent with the statewide housing need and may revise the determination of the council of governments if necessary to obtain this consistency. Each locality's share shall be determined by the appropriate council of governments consistent with the criteria above with the advice of

the department subject to the procedure established pursuant to subdivision (c) at least one year prior to the second revision, and at five-year intervals following the second revision pursuant to Section 65588.

(b) For areas with no council of governments, the Department of Housing and Community Development shall determine housing market areas and define the regional housing need for localities within these areas. Where the department determines that a local government possesses the capability and resources and has agreed to accept the responsibility, with respect to its jurisdiction, for the identification and determination of housing market areas and regional housing needs, the department shall delegate this responsibility to the local governments within these areas.

(c) Within 90 days following a determination of a council of governments pursuant to subdivision (a), or the department's determination pursuant to subdivision (b), a local government may revise the determination of its share of the regional housing need in accordance with the considerations set forth in subdivision (a). The revised share shall be based upon available data and accepted planning methodology, and supported by adequate documentation. Within 60 days after the time period for the local government's revision, the council of governments or the department, as the case may be, shall accept the revision or shall indicate, based upon available data and accepted planning methodology, why the revision is inconsistent with the regional housing need. The housing element shall contain an analysis of the factors and circumstances, with all supporting data, justifying the revision. All materials and data used to justify any revision shall be made available upon request by any interested party within seven days upon payment of reasonable costs of reproduction unless the costs are waived due to economic hardship.

(d) (1) Except as provided in paragraph (2), any ordinance, policy, or standard of a city, county, or city and county which directly limits, by number, the building permits which may be issued for residential construction, or which limits for a set period of time the number of buildable lots which may be developed for residential purposes, shall not be a justification for a determination or a reduction in a local government's share of the regional housing need.

(2) Paragraph (1) does not apply to any city, county, or city and county which imposes a moratorium on residential construction for a set period of time in order to preserve and protect the public health and safety. If a moratorium is in effect, the city, county, or city and county shall, prior to a revision pursuant to subdivision (c), adopt findings which specifically describe the impacted public facilities and the reasons why construction of the number of units specified as its share of the regional housing need would prevent the mitigation of that impact.

(e) Any authority to review and revise a local government's share of the regional housing need granted under this section shall not

constitute authority to revise, approve, or disapprove the manner in which the local government's share of the regional housing need is implemented through its housing program.

(f) A fee may be charged interested parties for any additional costs caused by the amendments to subdivision (c) at the 1983–84 Regular Session of the Legislature reducing from 45 to seven days the time within which materials and data shall be made available to interested parties.

(g) Determinations made by the department, a council of governments, or a local government pursuant to this section are exempt from the provisions of the California Environmental Quality Act, which is provided for in Division 13 (commencing with Section 21000) of the Public Resources Code.

SEC. 2. Notwithstanding Sections 2231 and 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because self-financing authority is provided in this act to cover costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of the Revenue and Taxation Code.

CHAPTER 1685

An act to amend Section 65009 of the Government Code, relating to local government.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 65009 of the Government Code is amended to read:

65009. (a) (1) The Legislature finds and declares that there currently is a housing crisis in California and it is essential to reduce delays and restraints upon expeditiously completing housing projects.

(2) The Legislature further finds and declares that a legal action challenging a decision of a city, county, or city and county has a chilling effect on the confidence with which property owners and local governments can proceed with housing projects. Legal actions filed to attack, review, set aside, void, or annul a decision of a city, county, or city and county pursuant to this division can prevent the completion of needed housing projects even though the housing projects have received required governmental approvals.

(3) The purpose of this section is to provide certainty for property

owners and local governments regarding decisions made pursuant to this division.

(b) (1) In an action or proceeding to attack, review, set aside, void, or annul a finding, determination, or decision of a public agency made pursuant to this title at a properly noticed public hearing, the issues raised shall be limited to those raised in the public hearing or in written correspondence delivered to the public agency prior to, or at, the public hearing, except where the court finds either of the following:

(A) The issue could not have been raised at the public hearing by persons exercising reasonable diligence.

(B) The body conducting the public hearing prevented the issue from being raised at the public hearing.

(2) If a public agency desires the provisions of this subdivision to apply to a matter, it shall include in any public notice issued pursuant to this title a notice substantially stating all of the following: "If you challenge the (nature of the proposed action) in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the (public entity conducting the hearing) at, or prior to, the public hearing."

(3) The application of this subdivision to causes of action brought pursuant to subdivision (d) applies only to the final action taken in response to the notice to the city or county clerk. If no final action is taken, then the issue raised in the cause of action brought pursuant to subdivision (d) shall be limited to those matters presented at a properly noticed public hearing or to those matters specified in the notice given to the city or county clerk pursuant to subdivision (d), or both.

(c) Except as provided in subdivision (d), no action or proceeding shall be maintained in any of the following cases by any person unless the action or proceeding is commenced and service is made on the legislative body within 120 days after the legislative body's decision:

(1) To attack, review, set aside, void, or annul the decision of a legislative body to adopt or amend a general or specific plan. This paragraph does not apply where an action is brought based upon the complete absence of a general plan or a mandatory element thereof, but does apply to an action attacking a general plan or mandatory element thereof on the basis that it is inadequate.

(2) To attack, review, set aside, void, or annul the decision of a legislative body to adopt or amend a zoning ordinance.

(3) To determine the reasonableness, legality, or validity of any decision to adopt or amend any regulation attached to a specific plan.

(4) Concerning any of the proceedings, acts, or determinations taken, done, or made prior to any of the decisions listed in paragraphs (1), (2), and (3).

(d) An action or proceeding shall be commenced and the legislative body served within two years after the accrual of the cause of action as provided in this subdivision, if the action or proceeding

meets both of the following requirements:

(1) It is brought in support of the development of housing projects which meet the requirements for housing for persons and families with low or moderate incomes set forth in Section 65915.

(2) It is brought with respect to actions taken pursuant to Article 10.6 (commencing with Section 65580) of Chapter 3 of this division, pursuant to Section 65589.5, 65863.6, 65915, or 66474.2 or pursuant to Chapter 4.2 (commencing with Section 65913).

A cause of action brought pursuant to this subdivision shall not be maintained until 60 days have expired following notice to the city or county clerk by the party bringing the cause of action, or his or her representative, specifying the deficiencies of the general plan, specific plan, or zoning ordinance. A cause of action brought pursuant to this subdivision shall accrue 60 days after notice is filed or the legislative body takes a final action in response to the notice, whichever occurs first. A notice or cause of action brought by one party pursuant to this subdivision shall not bar filing of a notice and initiation of a cause of action by any other party.

(e) Upon the expiration of the time limits provided for in this section, all persons are barred from any further action or proceeding.

(f) Notwithstanding Section 65700, this section shall apply to charter cities.

(g) Except as provided in subdivision (d), this section shall not affect any law prescribing or authorizing a shorter period of limitation than that specified herein.

(h) This section shall be applicable to those decisions of the legislative body of a city, county, or city and county made pursuant to this division on or after January 1, 1984.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 1686

An act to amend Sections 12703 and 12773 of the Business and Professions Code, to amend Sections 7121, 8370, 8688, 8689, 8691, and 12007 of, to add Sections 2270.5, 6400.5, 8045.5, and 8236.2 to, to add Article 1.6 (commencing with Section 7660) to Chapter 1 of Part 3 of Division 6 of, and to repeal Section 7651 of, the Fish and Game Code, and to add Section 34002 to the Public Resources Code, relating to fish, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 12703 of the Business and Professions Code is amended to read:

12703. (a) The issuance of a receipt showing the weight of fish, mollusks, or crustaceans pursuant to Sections 8011, 8012, 8013, 8014, and 8015 of the Fish and Game Code constitutes the issuance of a weight or measure certificate under this chapter when issued by persons who are required to be public weighmasters pursuant to Section 12700.

(b) Notwithstanding any other provision of this division, the weight of squid, anchovy, or Pacific whiting, certified pursuant to this section may, in a manner prescribed and authorized by regulations of the director, be determined by computation based upon volumetric measurement of containers. This subdivision shall not apply to squid, anchovy, or Pacific whiting delivered for the purpose of retorting or reduction.

SEC. 2. Section 12773 of the Business and Professions Code is amended to read:

12773. (a) The issuance of a receipt showing the weight of fish, mollusks, or crustaceans pursuant to Sections 8011, 8012, 8013, 8014 and 8015 of the Fish and Game Code constitutes the issuance of a weight or measure certificate under this chapter when issued by persons who are required to be public weighmasters at large pursuant to Section 12770.

(b) Notwithstanding any other provision of this division, the weight of squid, anchovy, or Pacific whiting certified pursuant to this section may, in a manner prescribed and authorized by regulations of the director, be determined by computation based upon volumetric measurement of containers. This subdivision does not apply to any squid, anchovy, or Pacific whiting delivered for the purpose of retorting or reduction.

SEC. 3. Section 2270.5 is added to the Fish and Game Code, to read:

2270.5. Section 2270 does not apply to the importation of live aquatic plants or animals for aquaculture purposes by a registered aquaculturist if the importation has been approved by the department pursuant to Section 15600.

SEC. 4. Section 6400.5 is added to the Fish and Game Code, to read:

6400.5. In addition to Section 6400, it is unlawful to transport or possess any live white bass (Marone chrysops), whether taken within or without the state, unless it is first submitted for inspection to, and written permission is obtained from, the department.

SEC. 5. Section 7121 of the Fish and Game Code is amended to read:

7121. It is unlawful to sell or purchase any fish or amphibia taken in or brought into the waters of the state, or brought ashore at any point in the state, under a sport fishing license.

It is unlawful to buy, sell, or possess in any place of business where fish are bought, sold, or processed, any fish or amphibia taken on any boat, barge, or vessel which carries sport fishermen, except those fish may be possessed in such a place only for the purposes of canning or smoking under regulations adopted by the commission.

SEC. 6. Section 7651 of the Fish and Game Code is repealed.

SEC. 7. Article 1.6 (commencing with Section 7660) is added to Chapter 1 of Part 3 of Division 6 of the Fish and Game Code, to read:

Article 1.6. Salmon Management

7660. As used in this article:

(a) "Advisory committee" means the Advisory Committee on Salmon and Steelhead Trout, established pursuant to Resolution Chapter 141 of the Statutes of 1983, except that there shall be two additional members appointed by the Joint Committee on Fisheries and Aquaculture after consultation with the Director of Fish and Game and the Fish and Game Commission.

7662. The department shall consult with the advisory committee and representatives of every user group known to the department on the progress being made in the development of the annual and long-term salmon management plans.

SEC. 8. Section 8045.5 is added to the Fish and Game Code, to read:

8045.5. (a) Every fisherman who sells Pacific mackerel or jack mackerel to any person, regardless of whether or not that person is licensed pursuant to Section 8040, shall pay a privilege tax of one-tenth of one cent ($0.001) for each pound, or fraction thereof, of Pacific mackerel or jack mackerel sold by him. This additional privilege tax shall be collected from the fisherman, and remitted to the department, by any person licensed pursuant to Section 8040 to whom the mackerel are sold. However, under any circumstances, payment of the additional privilege tax is not the obligation of any person licensed pursuant to Section 8040. If the mackerel are sold to a person other than a person licensed pursuant to Section 8040, the additional privilege tax shall be remitted to the department by the fisherman.

(b) All moneys received by the department pursuant to this section shall be available for appropriation by the Legislature for research and management activities to maintain and enhance the Pacific mackerel and jack mackerel resources and fisheries in the waters of this state.

SEC. 9. Section 8236.2 is added to the Fish and Game Code, to read:

8236.2. Funds paid by commercial salmon vessel permit or renewal applicants pursuant to Section 8236 shall be available, upon

appropriation by the Legislature, to pay the necessary and proper expenses of the Advisory Committee on Salmon and Steelhead Trout, established pursuant to Section 7660. The department shall provide the committee staffing within the existing budgetary constraints of the department.

SEC. 10. Section 8370 of the Fish and Game Code is amended to read:

8370. Any striped bass, salmon, or sturgeon taken in any type of nets in any districts shall be liberated from the nets by the fishermen.

Striped bass, salmon, or sturgeon necessarily taken aboard a boat to free them from a net shall be handled carefully and shall be returned to the water immediately unharmed.

A holder of a commercial fishing license may not have in his possession, except when releasing fish from the net, any striped bass, salmon, or sturgeon at any time when conducting netting operations or when going to or from such operations.

SEC. 11. Section 8688 of the Fish and Game Code is amended to read:

8688. In District 11, drift gill nets may be used, subject to the following restrictions:

(a) The cork line shall not be submerged more than two fathoms below the surface of the water, the lines attaching the buoys or floats to the cork line shall not be more than two fathoms in length, and the points of attachment of the lines on the cork line shall not be more than 10 fathoms apart.

(b) The length of the meshes shall be either 2½ inches or less, or 5½ inches or more. The meshes shall be approximately the same size, and shall not vary in length more than two inches.

(c) They may not be used where any part of the net is nearer than 300 feet to the point where the surface of the water joins the land.

(d) The use of drift gill nets in District 11 is prohibited from May 1 through October 1, inclusive.

SEC. 12. Section 8689 of the Fish and Game Code is amended to read:

8689. In District 12, drift gill nets may be used, subject to the following restrictions:

(a) They may be used to take herring, smelt, and other small fish.

(b) The cork line shall not be submerged more than two fathoms below the surface of the water, the lines attaching the buoys or floats to the cork line shall not be more than two fathoms in length, and the points of attachment of the lines on the cork line shall not be more than 10 fathoms apart.

(c) The length of meshes shall not exceed 2½ inches in length. The meshes of any gill net shall be approximately the same size.

(d) They may not be used where any part of the net is nearer than 300 feet to the point where the surface of the water joins the land.

(e) The use of drift gill nets in District 12 is prohibited from May 1 through October 1, inclusive.

SEC. 13. Section 8691 of the Fish and Game Code is amended to

read:

8691. In District 13, drift gill nets may be used to take herring, smelt, and other small fish, subject to the following restrictions:

(a) The cork line shall not be submerged more than two fathoms below the surface of the water, the lines attaching the buoys or floats to the cork line shall not be more than two fathoms in length, and the points of attachment of the lines on the cork line shall not be more than 10 fathoms apart.

(b) The length of the meshes shall not exceed 2½ inches in length. The meshes shall be approximately the same size.

(c) They may not be used where any part of the net is nearer than 300 feet to the point where the surface of the water joins the land.

(d) The use of drift gill nets in District 13 is prohibited from May 1 through October 1, inclusive.

SEC. 14. Section 12007 of the Fish and Game Code, as added by Chapter 85 of the Statutes of 1984, is amended to read:

12007. Notwithstanding Section 12002, the punishment for each violation of Section 2270, 2271, 6400, 6400.5, 15202, 15509, or 15600, or any regulation adopted pursuant to Section 15510, is a fine of not more than five thousand dollars ($5,000) or imprisonment in the county jail for a period not to exceed one year, or both the fine and imprisonment.

SEC. 15. Section 34002 is added to Public Resources Code, to read:

34002. The Department of Fish and Game may provide nonprofit organizations and Indian tribes partial funding of grants provided under Section 34001 or Section 3 of Chapter 344 of the Statutes of 1981, if in the opinion of the department, any such organization meets all of the following requirements:

(a) Has a previously demonstrated record of successfully completing one or more salmon or steelhead rehabilitation projects funded under the Cooperative North Coast Salmon and Steelhead Restoration Project.

(b) Utilizes acceptable accounting procedures.

(c) Demonstrates that the project can be accomplished more efficiently and economically and with partial funding provided before the project's completion.

SEC. 16. There is hereby appropriated the sum of ten thousand dollars ($10,000) to the Department of Fish and Game for expenditure in the 1984-85 fiscal year from the Fish and Game Preservation Fund from amounts paid for commercial salmon vessel permits or renewals of these permits under Section 8236 for the payment of the necessary and proper expenditures of the Advisory Committee on Salmon and Steelhead Trout pursuant to Section 8236.2.

SEC. 17. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a

local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 18. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow the Advisory Committee on Salmon and Steelhead Trout to prepare and submit its first report to the Legislature by January 1, 1985, as required by Resolution Chapter 141 of the Statutes of 1983 and in order to make clarifying changes to various provisions of the Fish and Game Code to facilitate the enforcement thereof, it is necessary that this act take effect immediately.

CHAPTER 1687

An act to amend Sections 25351, 25356.1, 25356.2, 25356.3, 25356.4, 25356.6, 25356.7, 25356.8, 25356.9, and 25395 of the Health and Safety Code, relating to hazardous substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 25351 of the Health and Safety Code, as amended by Chapter 376 of the Statutes of 1984, is amended to read:

25351. (a) Consistent with the requirements of Section 114(c) of the federal act (42 U.S.C. Sec. 9614(c)), moneys in the state account may be expended by the director, upon appropriation by the Legislature, for all of the following purposes:

(1) The costs and expenses reasonably necessary for, and incidental to, the administration of this chapter by the department.

(2) The state share mandated pursuant to Section 104(c) (3) of the federal act (42 U.S.C. Sec. 9604(c) (3)).

(3) The purchase by the state, or by any local agency with the prior approval of the director, of hazardous substance response equipment and other preparations for response to a release of hazardous substances. However, all equipment shall be purchased in a cost-effective manner after consideration of the adequacy of existing equipment owned by the state or the local agency, and the availability of equipment owned by private contractors.

(4) For payment of all costs of removal and remedial action incurred by the state, or by any local agency with the approval of the director in response to a release or threatened release of a hazardous

substance to the extent the costs are not reimbursed by the federal act.

(5) For payment of all costs of actions taken pursuant to subdivision (b) of Section 25358.3, to the extent that these costs are not paid by the federal act.

(6) All costs incurred in cooperation with the Agency for Toxic Substances and Disease Registry established pursuant to Section 104(i) of the federal act (42 U.S.C. Sec. 9604(i)) and all costs of health effects studies undertaken regarding specific sites or specific substances at specific sites. Funds appropriated for this purpose shall not exceed five hundred thousand dollars ($500,000) in any single fiscal year. However, these actions shall not duplicate reasonably available federal actions and studies.

(7) Repayment of the principal of, and interest on, bonds sold pursuant to Article 7.5 (commencing with Section 25385).

(8) The reasonable and necessary costs and expenses of the Hazardous Waste Cleanup Arbitration Panel created pursuant to Section 25356.2.

(b) The director shall expend federal funds in the state account consistent with the requirements specified in Section 114 of the federal act (42 U.S.C. Sec. 9614), upon appropriation by the Legislature, for the purposes for which they were provided to the state.

(c) Moneys in the state account shall not be expended to conduct removal or remedial actions if any significant portion of the hazardous substances to be removed or remedied originated from a source outside of the state.

SEC. 2. Section 25356.1 of the Health and Safety Code, as added by Chapter 376 of the Statutes of 1984, is amended to read:

25356.1. (a) The department, or, if appropriate, the regional water quality control board shall prepare or approve remedial action plans for all sites listed pursuant to Section 25356.

(b) A potentially responsible party may request the department or the regional water quality control board, when appropriate, to prepare or approve a remedial action plan for any site not listed pursuant to Section 25356 if the department or the State Water Resources Control Board determines that a removal or remedial action is required to respond to a release of a hazardous substance. The department or the state board shall respond to a request to prepare or approve a remedial action plan within 90 days of receipt. This subdivision does not affect the authority of any regional water quality control board to issue and enforce a cleanup and abatement order pursuant to Section 13304 of the Water Code or a cease and desist order pursuant to Section 13301 of the Water Code.

(c) All remedial action plans prepared or approved pursuant to this section shall be based upon Section 25350, Subpart F of the National Oil and Hazardous Substances Pollution Contingency Plan (40 C.F.R. Sec. 300.61 et seq.) and upon all of the following factors, to the extent that these factors are consistent with these federal

regulations and do not require a less stringent level of cleanup than these federal regulations:

(1) Health and safety risks posed by the conditions at the site. When considering these risks, the department or the regional water quality control board shall consider scientific data and reports which may have a relationship to the site.

(2) The effect of contamination or pollution levels upon present, future, and probable beneficial uses of contaminated, polluted, or threatened resources.

(3) The effect of alternative remedial action measures on the reasonable availability of groundwater resources for present, future, and probable beneficial uses.

(4) Site specific characteristics, including the potential for offsite migration of hazardous substances, the surface or subsurface soil, and the hydrogeologic conditions, as well as preexisting background contamination levels.

(5) Cost-effectiveness of alternative remedial action measures.

(d) A remedial action plan prepared or approved pursuant to this section shall include a statement of reasons setting forth the basis for the removal and remedial actions selected. The statement shall include an evaluation of each proposed alternative submitted to, or prepared by, the department or the regional water quality control board for a particular site. The statement shall also include an evaluation of the consistency of the removal and remedial actions proposed by the plan with the federal regulations and factors specified in subdivision (c) and shall set forth the reasons for rejection of alternative removal and remedial actions. The statement shall also include a nonbinding preliminary allocation of responsibility among all identifiable potentially responsible parties at a particular site, including those parties which may have been released, or may otherwise be immune, from liability pursuant to this chapter or any other provision of law. Before adopting a final remedial action plan, the department or the regional water quality control board shall prepare or approve a draft remedial action plan and shall circulate the draft plan for public comment for at least 30 days. After review and consideration of any public comments, and revising the draft plan, if appropriate, the department or the regional water quality control board shall issue the final remedial action plan.

(e) A potentially responsible party named in the final remedial action plan issued by the department or the regional water quality control board may seek judicial review of the final remedial action plan pursuant to Section 1085 of the Code of Civil Procedure within 30 days after the final plan is issued. The filing of a petition seeking judicial review of a final remedial action plan shall not stay any removal or remedial action specified in the final plan.

For purposes of judicial review, the court shall uphold the final remedial action plan if the plan is based upon substantial evidence available to the department or the regional water quality control

board, as the case may be. This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction, including, but not limited to, enjoining the expenditure of funds pursuant to paragraph (2) of subdivision (b) of Section 25385.6.

(f) After preparing a draft remedial action plan but before issuing the final remedial action plan, the department or the regional water quality control board shall do all of the following:

(1) Notify all residents living within one-half mile from the perimeter of the release site by direct mail or by publication in a local newspaper of general circulation.

(2) Conduct a sufficient number of public hearings to provide information to the public and to respond to the public's concerns and advice. The information to be provided shall include an assessment of the degree of contamination, the characteristics of the hazardous substances, an estimate of the time required to carry out the removal action, and a description of the planned removal action.

(3) Comply with Section 25358.7.

(g) This section does not require the department or a regional water quality control board to prepare a remedial action plan if conditions present at a site present an imminent or substantial endangerment to the public health and safety or to the environment.

(h) Article 2 (commencing with Section 13320), Article 3 (commencing with Section 13330), Article 5 (commencing with Section 13350), and Article 6 (commencing with Section 13360) of Chapter 5 of Division 7 of the Water Code apply to any action or failure to act by a regional water quality control board pursuant to this section.

SEC. 3. Section 25356.2 of the Health and Safety Code, as added by Chapter 376 of the Statutes of 1984, is amended to read:

25356.2. There is hereby created in the Office of the Secretary of the Environmental Affairs Agency a Hazardous Substance Cleanup Arbitration Panel.

The panel shall apportion liability for the costs of removal and remedial actions in accordance with Sections 25356.3 and 25356.4. All meetings of the panel are exempt from Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of, and Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of, the Government Code.

The panel shall be comprised of independent private arbitrators who have applied to the Office of the Secretary of the Environmental Affairs Agency for membership on the panel. Panel members shall have (a) relevant arbitration background and (b) expertise in engineering, expertise in the physical, biological, or health sciences, or other relevant experience and qualifications. Three arbitrators shall be selected from the panel to apportion liability for a single hazardous waste site. A majority of the arbitrators selected for a single site may apportion liability for the panel under this chapter.

The arbitrators shall be selected for an individual hazardous waste

site as follows:

(a) One arbitrator shall be selected by the department.

(b) One arbitrator shall be selected by the potentially responsible party, or a majority of the potentially responsible parties, who have submitted to binding arbitration by the panel.

(c) The two arbitrators selected pursuant to subdivisions (a) and (b) shall jointly select a third arbitrator.

SEC. 4. Section 25356.3 of to the Health and Safety Code, as added by Chapter 376 of the Statutes of 1984, is amended to read:

25356.3. (a) The department or the regional water quality control board shall serve a copy by mail of the draft remedial action plan upon all potentially responsible parties identified in the plan. Within 15 days after the issuance of a final remedial action plan, any potentially responsible parties with aggregate alleged liability in excess of 50 percent of the costs of removal and remedial action, as set forth in the statement of reasons issued pursuant to subdivision (d) of Section 25356.1, but excluding any costs which are the subject of an agreement under which any party agrees to assume liability for those costs, may convene an arbitration proceeding by agreeing to submit to binding arbitration by the panel. If an arbitration panel is convened pursuant to this section, any other potentially responsible party may elect to submit to binding arbitration by the panel. Any person submitting to arbitration under this section shall agree not to contest the fact of liability in the arbitration. The panel shall, and the parties are entitled to, address the proper apportionment of liability pursuant to subdivision (b). Submission to arbitration under this section is not an admission of liability for any other purpose or in any other proceeding, including a subsequent arbitration proceeding concerning the same site. The department or the regional water quality control board, whichever issued the final remedial action plan, shall participate in the arbitration proceedings to the same extent as the potentially responsible parties which have submitted to the arbitration.

(b) The panel shall apportion liability for the costs of all removal and remedial actions specified in the final remedial action plan.

(c) In panel proceedings, liability for the costs of removal and remedial shall be apportioned among all identifiable potentially responsible parties regardless of whether those parties are before the panel or have otherwise been released, or are immune, from liability pursuant to this chapter or any other provision of law. The panel shall apportion liability based on all of the following criteria:

(1) The amount of hazardous substance for which each party may be responsible.

(2) The degree of toxicity of the hazardous substance.

(3) The degree of involvement of the potentially responsible parties in the generation, transportation, treatment, or disposal of the hazardous substance.

(4) The degree of care exercised by the potentially responsible parties with respect to the hazardous substances, taking into account

the characteristics of the substance.

(5) The degree of cooperation by the potentially responsible parties with federal, state, and local officials to prevent harm to human health and the environment.

(d) The panel may issue subpoenas and subpoenas duces tecum to require attendance of a person or the production of documents, at the request of any person identified as potentially responsible in the remedial action plan, on its own motion, or at the request of the department or the appropriate regional water quality control board. A person requesting a subpoena duces tecum shall comply with Section 1985 of the Code of Civil Procedure. The jurisdiction of subpoenas and subpoenas duces tecum issued by the panel extends to all parts of the state. The subpoenas and subpoenas duces tecum shall be served pursuant to Sections 1987 and 1988 of the Code of Civil Procedure.

If the panel determines that a person is refusing to respond to a subpoena or subpoena duces tecum, or is guilty of a misconduct during the arbitration and negotiation process, the panel shall certify the facts to the superior court of the county in which the site is located. The court shall thereupon issue an order directing the person to appear before the court and show cause why the person should not be punished for contempt pursuant to Section 1209 of the Code of Civil Procedure. The order and a copy of the certified statement shall be served on the person, and thereafter the court shall have jurisdiction of the matter. The same proceedings shall be followed, the same penalties may be imposed, and the person charged may be purged of contempt in the same way as if the person has committed a contempt in the trial of a civil action before a superior court.

After receipt of documents pursuant to a subpoena duces tecum, any party may request the panel for a continuance for a reasonable period of time to review the documents prior to proceeding with the arbitration. The panel may grant a continuance for that purpose upon a showing of good cause.

(e) This chapter does not require a regional water quality control board or the State Water Resources Control Board to engage in arbitration pursuant to this section or Section 25356.2 for any enforcement action taken pursuant to Division 7 (commencing with Section 13000) of the Water Code.

SEC. 5. Section 25356.4 of the Health and Safety Code, as added by Chapter 376 of the Statutes of 1984, is amended to read:

25356.4. (a) After making an apportionment of liability among the potentially responsible parties pursuant to Section 25356.3, the panel shall prepare a draft arbitration decision which contains a statement of reasons supporting the apportionment and shall circulate the draft arbitration decision for at least 30 days for public comment. After review and consideration of any public comment, the panel shall issue the final arbitration decision within 30 days after the comment period.

(b) Each potentially responsible party whose liability has been apportioned by the panel is liable to the department or the regional water quality control board for its apportioned share of the costs of all removal and remedial actions at the site which is the subject of the final remedial action plan issued pursuant to Section 25356.1. The department or the regional water quality control board and one or more potentially responsible parties may enter into a cleanup agreement which is consistent with the remedial action plan and which provides for the satisfaction of the liability of a potentially responsible party by the party's performance of specified removal or remedial actions at the site.

(c) The moneys in the state account or the Hazardous Substance Cleanup Fund may be expended, upon appropriation by the Legislature, to pay any share of those potentially responsible parties who did not submit to binding arbitration pursuant to Section 25356.3 or did not otherwise agree to pay the costs of the removal and remedial actions specified in the remedial action plan.

(d) The department shall identify, and the Attorney General shall pursue recovery from, those potentially responsible parties who have not submitted to binding arbitration pursuant to Section 25356.3 or who have not discharged their obligations required by the final arbitration decision or the cleanup agreement.

(e) Advances from the state account, upon appropriation by the Legislature, shall be made available, where appropriate, to those responsible parties who are required by a cleanup agreement to perform specified removal or remedial actions pursuant to the remedial action plan. Moneys from the Hazardous Substance Cleanup Fund may be expended by the department, upon appropriation by the Legislature, to make advances, where appropriate, to responsible parties who are required by a cleanup agreement to perform specified removal or remedial actions pursuant to the remedial action plan, for the purposes specified in Section 25385.6.

SEC. 6. Section 25356.6 of the Health and Safety Code, as added by Chapter 376 of the Statutes of 1984, is amended to read:

25356.6. (a) Notwithstanding any other provision of state law or any local ordinance or regulation, except as provided in subdivision (b), to encourage the prompt and effective cleanup of hazardous substance release sites, a potentially responsible party has no additional civil liability to any governmental entity under state or local law, for any prior acts or omissions associated with the conditions addressed in the remedial action plan which is the subject of the arbitration decision, if the potentially responsible party has submitted to binding arbitration and has discharged its obligations under the arbitration decision, either by paying that party's apportioned share of the costs of all removal and remedial actions to the department or the regional water quality control board, or by performing the specified removal and remedial actions pursuant to a cleanup agreement. The release from liability specified in this

section is conditioned on complete implementation of the remedial action plan, including, where appropriate, adequate sampling, testing, and maintenance of the site to which the remedial action plan is applicable to ensure that the level of cleanup required is achieved and maintained. However, this section does not affect the liability of any person for costs recoverable under Section 25352, unless these costs are specifically addressed in the arbitration decision or cleanup agreement. Where these costs are not addressed in the arbitration decision or cleanup agreement, the liability for these costs shall be determined pursuant to the applicable sections of this chapter and may be apportioned among the potentially responsible parties pursuant to Sections 25356.3 and 25356.4.

(b) The department, any party to the arbitration decision, or any party substantially affected by the arbitration decision may petition the panel to modify the apportionment of liability in a arbitration decision. Upon a showing of a material change in the facts known to the parties to the arbitration decision at the time it was issued, the panel shall modify the apportionment of liability specified in the arbitration decision, as appropriate, to reflect these changed facts. Upon a showing of a material change in the facts known to the department at the time it issued the final remedial action plan, or the discovery of new facts, the department or regional board shall modify the remedial action plan, as appropriate, to reflect new or additional facts. The arbitration panel shall then modify its arbitration decision to reflect any modification of the remedial action plan made by the department.

(c) This section does not affect the existing rights of any individual to recover civil damages or to obtain equitable relief against any person, including a potentially responsible party, for physical injury or property damage caused by the release of hazardous substances at the site covered by the arbitration decision or at any other location.

(d) A party who has submitted to arbitration pursuant to this article and whose liability has been apportioned by the arbitration panel in an arbitration proceeding may seek indemnity from any other person liable for the party's apportioned share of the removal and remedial actions taken at a site which is the subject of the arbitration decision, including any department, agency contractor, or any other governmental agency. A potentially responsible party who does not submit to binding arbitration pursuant to this article, but whose liability has been apportioned in the arbitration decision and is subsequently found liable under this chapter has no right to indemnification for any removal or remedial action which is the subject of the arbitration decision from any party to that arbitration decision who has discharged its obligation under the arbitration decision or the cleanup agreement.

SEC. 7. Section 25356.7 of the Health and Safety Code, as added by Chapter 376 of the Statutes of 1984, is amended to read:

25356.7. In order to encourage rapid resolution of differences

among responsible parties and to speed the cleanup of sites, and notwithstanding any other provision of law, the following evidence is admissible in a court of law only to show the good faith of the parties who have discharged their obligations under an arbitration decision issued, or cleanup agreement entered into, pursuant to Section 25356.4 or that the following removal and remedial actions specified in the remedial action plan were to be performed:

(a) A preliminary allocation of responsibility pursuant to Section 25356.1.

(b) The fact that any person has either participated or has not participated in a panel arbitration proceeding.

(c) The fact that any person has voluntarily implemented a remedial action plan, regardless of whether the plan is final for purposes of Section 25356.1.

(d) Any finding of fact or conclusion of law by the panel, including the apportionment of liability pursuant to Section 25356.3.

(e) Admissions made during the arbitration proceeding.

(f) Documents prepared by a party which has submitted to binding arbitration if the documents are prepared after the remedial action plan has been issued, and if the documents are prepared solely for the arbitration.

SEC. 8. Section 25356.8 of the Health and Safety Code, as added by Chapter 376 of the Statutes of 1984, is amended to read:

25356.8. (a) Judicial review of the arbitration decision on the apportionment of liability is limited to a showing of fraud by a party to the arbitration proceeding or an abuse of discretion by the panel, or both.

(b) Judicial review of a decision by the department modifying the remedial action plan pursuant to subdivision (b) of Section 25356.6 shall be conducted pursuant to Section 1085 of the Code of Civil Procedure and the standard of review shall be the same as that specified in subdivision (e) of Section 25356.1.

SEC. 9. Section 25356.9 of the Health and Safety Code, as added by Chapter 376 of the Statutes of 1984, is amended to read:

25356.9. (a) The provisions of this chapter relating to the preparation, approval, and issuance of remedial action plans and to procedures for the apportionment of liability by the Hazardous Substance Cleanup Arbitration Panel do not do either of the following:

(1) Apply to any actions taken pursuant to Chapter 6.5 (commencing with Section 25100).

(2) Prohibit the department or the Attorney General, upon the request of the department, from pursuing the remedies specified in subdivision (a) of Section 25358.3 when the director determines that there may be an imminent or substantial endangerment to the public health or welfare or to the environment, because of a release or a threatened release of a hazardous substance.

(b) The department and the Attorney General may pursue any existing legal, equitable, or administrative remedies, pursuant to

federal or state law, against any potentially responsible party named in a remedial action plan if the party does not submit to arbitration pursuant to Section 25356.3 or if the party has not discharged that party's obligations under an arbitration decision or cleanup agreement.

SEC. 10. Section 25395 of the Health and Safety Code, as amended by Chapter 376 of the Statutes of 1984, is amended to read:

25395. (a) Except as provided in subdivisions (b) and (c), this chapter, including, but not limited to, the tax imposed by Section 25345, shall remain in effect only until July 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1991, deletes or extends that date.

(b) On July 1, 1991, the Department of Finance shall submit a report to the Secretary of State which states whether the principal of, and interest on, the bonds sold pursuant to Article 7.5 (commencing with Section 25385) have been paid and the General Fund has been reimbursed for any and all amounts that were expended therefrom to pay the principal of, and interest on, those bonds. If the report states that the bonds have not been paid or that the General Fund has not been reimbursed, then, notwithstanding subdivision (a), Article 1 (commencing with Section 25300), Article 2 (commencing with Section 25310), Article 3 (commencing with Section 25330), Article 4 (commencing with Section 25340), Article 6 (commencing with Section 25360), and Article 7.5 (commencing with Section 25385) shall not be repealed and shall remain in effect until the date specified in subdivision (c).

(c) If the articles specified in subdivision (b) remain in effect after July 1, 1991, pursuant to subdivision (b), on the date when the principal of, and interest on, the bonds sold pursuant to Article 7.5 (commencing with Section 25385) have been paid and the General Fund has been reimbursed for any and all amounts that were expended therefrom to pay the principal of, and interest on, those bonds, the Department of Finance shall submit a report to the Secretary of State containing that information. The articles specified in subdivision (b) shall be repealed on the date when that report is submitted.

(d) If the articles specified in subdivision (b) remain in effect after July 1, 1991, the committee, as defined in Section 25385.1, may determine the amount of the tax revenues to be collected annually pursuant to Section 25345, which amount may be less than, but shall not exceed, fifteen million dollars ($15,000,000). The committee shall also inform the State Board of Equalization, on March 1 of each calendar year, of the amount of the tax revenues which will be collected for the previous calendar year.

SEC. 11. This act shall become operative upon the adoption by the voters of the Hazardous Substance Cleanup Bond Act of 1984, as set forth in Section 18 of Chapter 376 of the Statutes of 1984.

SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to better protect the environment and the health and welfare of the people of the state from the well-known dangers of hazardous substances releases by hastening the cleanup of these releases, it is necessary that this act take effect immediately.

CHAPTER 1688

An act to amend Sections 50515, 50516, 50517, 50530, 50531 of, to amend the chapter heading of Chapter 3.5 (commencing with Section 50530) of Part 2 of Division 31 of, to add Sections 50400.5, 50517.4, 50532, 50532.5 to, to add chapter headings to Part 2 (commencing with Section 50400) of Division 31 of, to repeal Section 50532 of, and to repeal Chapter 8 (commencing with Section 50700) of Part 2 of Division 31 of, the Health and Safety Code, relating to housing, and making an appropriation therefor.

[Approved by Governor September 30, 1984 Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 50400.5 is added to the Health and Safety Code, to read:

50400.5. Notwithstanding Section 13340 of the Government Code, or any other provision of law, any money contained in the Rural Predevelopment Loan Fund created pursuant to Section 50516, the Housing Rehabilitation Loan Fund created pursuant to Section 50661, the Homeownership Assistance Fund created pursuant to Section 50778, the Rental Housing Construction Fund created pursuant to Section 50740, and the Urban Predevelopment Loan Fund created pursuant to Section 50531, are hereby continuously appropriated, without regard to fiscal year, for any purposes authorized by statute. It is the intent of the Legislature that this section also supersede the amounts appropriated pursuant to Items 2240-101-635, 2240-101-929, 2240-101-936, 2240-101-938, and 2240-101-980, respectively, of the Budget Act of 1984 (Ch. 258, Stats. 1984).

SEC. 1.5. A chapter heading is added to Part 2 (commencing with Section 50400) of Division 31 of the Health and Safety Code, immediately preceding Section 50515, to read:

CHAPTER 3.1. RURAL PREDEVELOPMENT LOANS

SEC. 2. Section 50515 of the Health and Safety Code is amended to read:

50515. As used in this chapter:

(a) "Housing" includes, but is not limited to, manufactured housing.

(b) "Fund" means the Rural Predevelopment Loan Fund which is replenished continuously by repayments of principal on loans made from the fund.

(c) "Predevelopment loan" means a loan for required expenses, other than administrative and construction, which are incurred by eligible sponsors in the process of, and prior to, securing long-term financing for production, conversion, or rehabilitation of assisted housing, and which are recoverable once long-term financing is obtained. The purposes for which predevelopment loans may be made include, but are not limited to, the costs of, or the costs associated with, land purchase or options to buy land; professional services such as architectural, engineering, or legal services; permit or application fees; and bonding, site preparation, related water or sewer development, or material expenses. In addition, the loans may be made for the purpose of extending the time period for exercising an option or extending the time period for repayment of an advance previously obtained. Such loan funds may be deposited in banks as compensating balances to establish lines of credit for participating nonprofit corporations.

(d) "Land purchase loan" means a loan for the costs incurred by an eligible sponsor in obtaining an option on, or purchasing suitable land for, the future development of assisted housing, including, but not limited to, costs associated with transfer of title, appraisals, payment of property taxes, surveys, and necessary maintenance of the land.

(e) "Eligible sponsors" means local governmental agencies or nonprofit corporations, including cooperative housing corporations.

SEC. 3. Section 50516 of the Health and Safety Code is amended to read:

50516. (a) The Housing Predevelopment Loan Fund established pursuant to this section and the Land Purchase Fund established pursuant to Section 50701 are hereby combined and renamed the Rural Predevelopment Loan Fund.

(b) Notwithstanding Section 13340 of the Government Code, all money in the fund, including any interest on loans made from the fund, is continuously appropriated to the department for carrying out the purposes of this chapter. The fund shall be a revolving loan fund which shall be used to make predevelopment loans and land purchase loans to eligible sponsors for assisted housing in rural areas, for occupancy by persons of low income.

(c) All interest, dividends, and pecuniary gains from investments or deposits of moneys in the fund shall accrue to the fund, notwithstanding Section 16305.7 of the Government Code.

There shall be paid into the fund all of the following:

(1) Any moneys appropriated and made available by the Legislature for the purposes of the fund.

(2) Any moneys which the department receives in repayment of

loans made from the fund, including any interest on loans made from the fund.

(3) Any other moneys which may be made available to the department for the purposes of this chapter from any other source.

SEC. 4. Section 50517 of the Health and Safety Code is amended to read:

50517. The fund shall be administered by the director and such persons within the department as the director may designate.

The fund shall be administered in accordance with all of the following requirements:

(a) The department shall not commit more than 30 percent of the total moneys in the fund for land purchase loans, or more than 85 percent of the total moneys in the fund for predevelopment loans.

(b) The department shall not commit more than 20 percent of the total moneys appropriated to the fund to any single borrower at any point in time.

(c) The department shall require adequate security for all loans made from the fund. For the purposes of this subdivision, the term "adequate security" includes, but need not be limited to, a security interest in any property purchased with fund moneys, a promissory note, or an assignment of a land option, except that in the case of Indian trust land a mortgage on a leasehold interest in the property shall be acceptable.

(d) No predevelopment loan may be made pursuant to this chapter unless the department may reasonably anticipate that a commitment can be obtained by an eligible sponsor for construction financing or long-term financing that will permit occupancy by persons of low income, as specified in subdivision (b) of Section 50516. The department may make land purchase loans to eligible sponsors to enable those sponsors to exercise options or to purchase land on which no option can be obtained even though the sponsor is not able at the time the loan is made to proceed with the development of assisted housing on the purchased site. If the eligible sponsor is unable to proceed with the development of assisted housing within three years of the sponsor's acquisition of the site, the sponsor shall convey the site to the department. The department shall dispose of the site in accordance with subdivision (o) of Section 50406, and the net proceeds shall be paid into the fund.

(e) The department shall, from time to time, direct the Treasurer to invest moneys of the fund which are not required for its current needs in such eligible securities as the department shall designate from among those specified in Section 16430 of the Government Code. The department may direct the Treasurer to deposit moneys from the fund in interest-bearing accounts in state or national banks or other financial institutions having principal offices in this state. The department may alternatively require the transfer of moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. All

interest, dividends, and pecuniary gains from such investments or deposits shall accrue to the fund.

(f) In complying with Section 50408, the department shall also report annually to the Legislature and the Governor on the administration of the fund. The report shall include, but need not be limited to, all of the following information:

(1) The number of units assisted.

(2) The average income of households assisted and the distribution of annual incomes among assisted households.

(3) The rents in assisted units.

(4) The number and amount of loans made to each eligible sponsor in the preceding year.

(5) Data on the number of delinquencies and defaults.

(6) Recommendations, as needed, to improve the operation of the fund.

(7) The number of loans made at interest rates lower than 7 percent per annum, and the income of households assisted by such loans.

(8) The public transportation services conveniently available to assisted households.

(9) The number of manufactured housing units assisted under Section 50516 and this section.

(10) The location, size, and cost of land, and option rights purchased with land purchase loans.

(g) (1) Except as provided in paragraph (2), the balance of any loan made from the fund or its predecessor funds which remains unpaid on September 22, 1983, except any portion which is delinquent, and all loans made from the fund on or after that date, shall bear interest at a rate of 7 percent per annum.

(2) The department may reduce or eliminate interest on the loans, if, in the exercise of sound discretion, the department determines such action is necessary for the provision of decent housing to very low income households, as described in Section 50105. However, if the department eliminates interest on a loan, it shall charge a loan origination fee not to exceed 2 percent of the loan amount.

(h) The department may make predevelopment loans or land purchase loans for the development of mobilehome parks and manufactured housing subdivisions.

SEC. 5. Section 50517.4 is added to the Health and Safety Code, to read:

50517.4. In order to assure the immediate availability of money to secure suitable sites in rural areas for development of assisted housing, the department may also make land purchase loans to eligible sponsors which meet standards of experience in the development of assisted housing prescribed by the department. These loans shall be made pursuant to an agreement with such sponsors for a maximum term of 12 months, renewable by the department for a maximum of two additional terms of 12 months

each. The land purchase loans shall be deposited in a special interest-bearing account and shall be available, with the prior approval of the department, to the sponsors for the exclusive purpose of obtaining options on, or purchasing sites suitable for, assisted housing in rural areas.

SEC. 6. A chapter heading is added to Part 2 (commencing with Section 50400) of Division 31 of the Health and Safety Code, immediately preceding Section 50517.5, to read:

CHAPTER 3.2. FARMWORKER HOUSING GRANT PROGRAM

SEC. 7. A chapter heading is added to Part 2 (commencing with Section 50400) of Division 31 of the Health and Safety Code, immediately preceding Section 50519, to read:

CHAPTER 3.3. RESIDENTIAL HOTEL REHABILITATION

SEC. 8. A chapter heading is added to Part 2 (commencing with Section 50400) of Division 31, immediately preceding Section 50523, of the Health and Safety Code, to read:

CHAPTER 3.4. MOBILEHOME PARK OWNERSHIP ASSISTANCE

SEC. 9. The chapter heading of Chapter 3.5 (commencing with Section 50530) of Part 2 of Division 31 of the Health and Safety Code is amended to read:

CHAPTER 3.5. URBAN PREDEVELOPMENT LOANS

SEC. 10. Section 50530 of the Health and Safety Code is amended to read:

50530. As used in this chapter:

(a) "Housing" includes, but is not limited to, manufactured housing.

(b) "Predevelopment loan" means a loan for required expenses, other than administrative and construction, which are incurred by eligible sponsors in the process of, and prior to, securing long-term financing for construction, conversion, or rehabilitation of assisted housing, and which are recoverable once long-term financing is obtained. The purposes for which predevelopment loans may be made include, but are not limited to, the costs of, or the costs associated with, land purchase or options to buy land; professional services such as architectural, engineering, or legal services; permit or application fees; and bonding, site preparation, related water or sewer development, or material expenses. In addition, the loans may be made for the purpose of extending the time for exercising an option or extending the time period for repayment of an advance previously obtained. Such loan funds may be deposited in banks as compensating balances to establish lines of credit for participating

nonprofit corporations.

(c) "Fund" means the Urban Predevelopment Loan Fund which is replenished continuously by repayments of principal on loans made from the fund.

(d) "Land purchase loan" means a loan for the costs incurred by an eligible sponsor in obtaining an option on, or purchasing suitable land for, the future development of assisted housing, including, but not limited to, costs associated with transfer of title, appraisals, payment of property taxes, surveys, and necessary maintenance of the land.

(e) "Eligible sponsors" means local governmental agencies or nonprofit corporations, including cooperative housing corporations.

SEC. 11. Section 50531 of the Health and Safety Code is amended to read:

50531. (a) The Urban Housing Development Loan Fund established in the State Treasury is hereby renamed the Urban Predevelopment Loan Fund.

(b) Notwithstanding Section 13340 of the Government Code, all money in the fund, including any interest on loans made from the fund, is hereby continuously appropriated to the department for carrying out the purposes of this chapter. The fund shall be a revolving loan fund which shall be used to make predevelopment loans and land purchase loans to eligible sponsors for assisted housing in urban areas, for occupancy primarily by persons of low income.

(c) All interest, dividends, and pecuniary gains from investments or deposits of moneys in the fund shall accrue to the fund, notwithstanding Section 16305.7 of the Government Code.

There shall be paid into the fund all of the following:

(1) Any moneys appropriated and made available by the Legislature for the purposes of the fund.

(2) Any moneys which the department receives in repayment of loans made from the fund, including any interest on loans made from the fund.

(3) Any other moneys which may be made available to the department for the purposes of this chapter from any other source.

SEC. 12. Section 50532 of the Health and Safety Code is repealed.

SEC. 13. Section 50532 is added to the Health and Safety Code, to read:

50532. The fund shall be administered by the director and such persons within the department as the director shall designate.

The fund shall be administered in accordance with all of the following requirements:

(a) The department shall not commit more than 30 percent of the total moneys in the fund for land purchase loans, or more than 85 percent of the total moneys in the fund for predevelopment loans.

(b) The department shall not commit more than 20 percent of the total moneys appropriated to the fund to any single borrower at any point in time.

(c) The department shall require adequate security for all loans

made from the fund. For the purposes of this subdivision, "adequate security" includes, but need not be limited to, a security interest in any property purchased with fund moneys, a promissory note, or an assignment of a land option, except that in the case of Indian trust land a mortgage on a leasehold interest in the property shall be acceptable.

(d) No predevelopment loan may be made pursuant to this chapter unless the department may reasonably anticipate that a commitment can be obtained by an eligible sponsor for construction financing or long-term financing that will permit occupancy primarily by persons of low income, as specified in subdivision (b) of Section 50531. The department may make land purchase loans to eligible sponsors to enable those sponsors to exercise options or to purchase land on which no option can be obtained even though the sponsor is not able at the time the loan is made to proceed with the development of assisted housing on the purchased site. If the eligible sponsor is unable to proceed with the development of assisted housing on the purchased site within three years of its acquisition, the sponsor, upon demand of the department, shall convey the site to the department. The department shall dispose of the site in accordance with subdivision (o) of Section 50406, and the net proceeds shall be paid into the fund.

(e) The department shall, from time to time, direct the Treasurer to invest moneys of the fund which are not required for its current needs in such eligible securities as the department shall designate from among those specified in Section 16430 of the Government Code. The department may direct the Treasurer to deposit moneys from the fund in interest-bearing accounts in state or national banks or other financial institutions having principal offices in this state. The department may alternatively require the transfer of moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. All interest, dividends, and pecuniary gains from such investments or deposits shall accrue to the fund.

(f) In complying with Section 50408, the department shall also report annually to the Legislature and the Governor on the administration of the fund. The report shall include, but need not be limited to, all of the following information:

(1) The number of units assisted.

(2) The average income of households assisted and the distribution of annual incomes among assisted households.

(3) The rents in assisted units.

(4) The number and amount of loans made to each eligible sponsor in the preceding year.

(5) Data on the number of delinquencies and defaults.

(6) Recommendations, as needed, to improve the operation of the fund.

(7) The number of loans made at interest rates lower than 7

percent per annum, and the income of households assisted by such loans.

(8) The public transportation services conveniently available to assisted households.

(9) The number of manufactured housing units assisted under Section 50531 and this section.

(10) The location, size, and cost of land, and option rights purchased with land purchase loans.

(g) (1) Except as provided in paragraph (2), the balance of any loan made from the fund or its predecessor fund which remains unpaid on September 22, 1983, except any portion which is delinquent, and all loans made from the fund on or after that date, shall bear interest at a rate of 7 percent per annum.

(2) The department may reduce or eliminate interest on the loans, if, in the exercise of sound discretion, the department determines such action is necessary for the provision of decent housing to very low income households, as described in Section 50105. However, if the department eliminates interest on a loan, it shall charge a loan origination fee not to exceed 2 percent of the loan amount.

(h) Other things being equal, the department shall give priority to assisting development which will be located in public transit corridors.

(i) The department may make predevelopment loans or land purchase loans for the development of mobilehome parks and manufactured housing subdivisions.

SEC. 14. Section 50532.5 is added to the Health and Safety Code, to read:

50532.5. In order to assure the immediate availability of money to secure suitable sites in urban areas for the development of assisted housing, the department may also make land purchase loans to eligible sponsors which meet standards of experience in the development of assisted housing prescribed by the department. These loans shall be made pursuant to an agreement with such sponsors for a maximum term of 12 months, renewable by the department for a maximum of two additional terms of 12 months each. The land purchase loans shall be deposited in a special interest-bearing account and shall be available, with the prior approval of the department, to the sponsors for the exclusive purpose of obtaining options on, or purchasing sites suitable for, assisted housing in urban areas.

SEC. 15. Chapter 8 (commencing with Section 50700) of Part 2 of Division 31 of the Health and Safety Code is repealed.

CHAPTER 1689

An act relating to migrant labor.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. The Legislature finds and declares that there is a severe shortage of decent, safe, and sanitary housing that is affordable to California's agricultural employees. The absence of an adequate supply of housing aggravates the problem of growers in ensuring an available labor supply and is inimical to the health and safety of employees. These employees have no alternative but to crowd into dilipated housing or live in cars and orchards. These conditions adversely affect the productivity of California's number one industry, agriculture, and has deleterious effects on public health and the health of consumers.

The Legislature further finds and declares that it is not feasible for all agricultural employers, particularly small family farmers, to build and maintain housing for their employees. The programs provided by the state and federal governments have been unable to meet the need that exists and further action is necessary to help meet the needs of farm labor employers and employees for more labor housing. It is a valid and worthwhile public purpose to provide incentives to ensure an available supply of labor to employers and decent housing to employees.

SEC. 2. The Department of Housing and Community Development, through its Office of Migrant Services, pursuant to the authority granted in subdivision (n) of Section 50406 and Section 50710 of the Health and Safety Code, shall develop three state-operated migrant farm labor camp centers of 100 family units each in the Counties of Imperial, San Diego, and Riverside. The department shall seek the maximum possible contribution of funds, land, and other incentives from local, federal, and private sources.

SEC. 3. The Department of Housing and Community Development shall report to the Legislature every six months until any funds appropriated by the Legislature, prior to July 1, 1986, for the development of the centers described in Section 2 of this act are expended. The reports shall include a progress statement on the projects, and shall specify what steps are being taken by the department to seek federal, local, and private contributions of funds, land, and other incentives as required by Section 2 of this act.

SEC. 4. If the Legislature does not appropriate sufficient funds to finance the development of all three of the centers required by Section 2 of this act, as determined by the Department of Housing and Community Development, then the centers shall be developed in the prescribed counties, to the extent funds are available, in the

following priority order: Riverside, San Diego, and Imperial.

CHAPTER 1690

An act to amend Section 50696 of, and to add Sections 50691.1 and 50697.1 to, the Health and Safety Code, relating to housing, and making an appropriation therefor.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 50691.1 is added to the Health and Safety Code, to read:

50691.1. The Legislature finds and declares that self-help housing generates self-reliance and a sense of community for participants, and that it is an important and proven source of housing for many low- and moderate-income California residents.

The Legislature further finds and declares that the California Housing Advisory Service has been very successful in its goal of stimulating the production and rehabilitation of housing with the use of several self-help housing techniques, and that the program should be expanded to assist more low- and moderate-income residents throughout this state.

In addition to the purposes specified in Section 50691, the purposes of this chapter include all of the following:

(1) Expansion of the production of decent and affordable housing for low- and moderate-income people through the use of self-help methods of rehabilitation and construction.

(2) Expansion of homeownership opportunities for those to whom it would otherwise not be available without the cost savings achieved by the self-help method.

(3) Encouragement of self-reliance, pride of ownership, and sense of community for those who participate.

SEC. 2. Section 50696 of the Health and Safety Code is amended to read:

50696. (a) The California Housing Advisory Service may provide the information and technical assistance required by Section 50695 in conjunction with federal and state energy and water conservation programs, and federal and state neighborhood preservation and urban homesteading programs, including local programs carried on in federally assisted community development neighborhoods, neighborhood preservation areas, redevelopment project areas, urban homesteading areas, and residential rehabilitation areas.

(b) The California Housing Advisory Service may contract with public entities and private nonprofit corporations to provide assistance to persons and families of low or moderate income who are

owner-builders or self-help rehabilitators, as defined in subdivisions (a) and (c) of Section 50692. These contracts shall provide grant funds for any of the following activities:

(1) To cover the costs of developing, conducting, administering, or coordinating programs of technical or supervisory assistance which will aid persons and families of low or moderate income in carrying out owner-building or self-help rehabilitation housing efforts.

(2) To writedown the development costs of the participant's housing.

(3) To reduce monthly mortgage payments by reducing the interest cost to the participant through supplemental payments of those grant funds, reducing principal, or deferring all or a portion of the payments until the housing is sold or refinanced.

(c) The primary emphasis of the California Housing Advisory Service and local housing advisory service programs shall be to expand and improve the housing stock available to lower income households. The advisory service shall give priority to those applications received by the program which serve the highest proportion of lower-income households.

(d) Any units constructed or rehabilitated under the provisions of subdivision (b) of Section 50696 shall remain affordable to, and occupied by, lower-income households for a minimum of 20 years.

SEC. 3. Section 50697.1 is added to the Health and Safety Code, to read:

50697.1. The Self-Help Housing Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are continuously appropriated for contracts entered into pursuant to subdivision (b) of Section 50696 and for costs incurred by the California Housing Advisory Service in administering the program.

The fund shall consist of all of the following:

(a) Any moneys appropriated to the fund by the Legislature.

(b) Any moneys which the California Housing Advisory Service receives in repayment or return of grants from the fund, including any interest on those moneys.

(c) Any other moneys which may be made available to the California Housing Advisory Service for the purposes of subdivision (b) of Section 50696 from any other source or sources.

SEC. 4. There is hereby appropriated from the General Fund to the Self-Help Housing Fund, the sum of three million dollars ($3,000,000) for expenditure according to the following schedule:

Schedule:

(a) $2,800,000 for contracts entered into pursuant to subdivision (b) of Section 50696 of the Health and Safety Code.

(b) $200,000 for administrative costs of

the California Housing Advisory Service incurred pursuant to subdivision (b) of Section 50696 of the Health and Safety Code.

CHAPTER 1691

An act to amend Sections 65008 and 65583 of the Government Code, to amend Sections 50001, 50801, 50802, and 50806 of, to amend and renumber Section 50800 of, to add Sections 50003.3, 50524, 50800, 50805, and 50807 to, and to repeal Section 50805 of, the Health and Safety Code, and to amend Section 2 of Chapter 2 of the Statutes of 1975, First Extraordinary Session, relating to housing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. The Legislature finds and declares that because of economic, physical, and mental conditions that are beyond their control, thousands of individuals and families in California are homeless. Churches, local governments, and nonprofit organizations providing assistance to the homeless have been overwhelmed by a new class of homeless: families with children, individuals with employable skills, and formerly middle-class families and individuals with long work histories.

The programs provided by the state, local, and federal governments, and by private institutions, have been unable to meet existing needs and further action is necessary. The Legislature finds and declares that two levels of housing assistance are needed: an emergency fund to supplement temporary shelter programs, and a fund to facilitate the preservation of existing housing and the creation of new housing units affordable to very low income households. It is in the public interest for the State of California to provide this assistance.

The Legislature further finds and declares that there is a need for more information on the numbers of homeless and the causes of homelessness, and for systematic exploration of more comprehensive solutions to the problem. Both local and state government have a role to play in identifying, understanding, and devising solutions to the problem of homelessness.

SEC. 2. Section 65008 of the Government Code is amended to read:

65008. (a) Any action pursuant to this title by any city, county,

or city and county in this state which denies to any individual or group of individuals the enjoyment of residence, land ownership, tenancy, or any other land use in this state because of religious or ethnic reasons is null and void.

(b) No city, county, or city and county shall, in the enactment or administration of ordinances pursuant to this title, prohibit or discriminate against any residential development or emergency shelter because of the method of financing or the race, sex, color, religion, national origin, ancestry, or age of the intended occupants of the development or project.

(c) No city, county, or city and county shall, in the enactment or administration of ordinances pursuant to this title, prohibit or discriminate against a residential development or emergency shelter because the development or shelter is intended for occupancy by persons and families of low and moderate income, as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income.

For the purposes of this section, "persons and families of middle income" means persons and families whose income does not exceed 150 percent of the median income for the county in which the persons or families reside.

(d) No city, county, or city and county may impose different requirements on a residential development or emergency shelter which is subsidized, financed, insured, or otherwise assisted by the federal or state governments or by a local public entity, as defined in Section 50079 of the Health and Safety Code, than those imposed on nonassisted developments, except as provided in subdivision (e).

(e) Nothing in this title shall be construed to prohibit a city, county, or city and county from extending preferential treatment to residential developments or emergency shelters assisted by the federal or state governments or by a local public entity, as defined in Section 50079 of the Health and Safety Code, or other residential developments or emergency shelters intended for occupancy by persons and families of low and moderate income, as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income. This preferential treatment may include, but need not be limited to, reduction or waiver of fees or changes in architectural requirements, site development and property line requirements, building setback requirements, or vehicle parking requirements which reduce development costs of these developments.

(f) This section shall apply to chartered cities.

The Legislature finds and declares that discriminatory practices which inhibit the development of housing for persons and families of low, moderate, and middle income, or emergency shelters for the homeless, are a matter of statewide concern.

SEC. 3. Section 65583 of the Government Code is amended to read:

65583. The housing element shall consist of an identification and

analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include the following:

(1) Analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584.

(2) Analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) Analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures.

(5) Analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(6) Analysis of any special housing needs, such as those of the handicapped, elderly, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter.

(7) Analysis of opportunities for energy conservation with respect to residential development.

(b) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, improvement, and development of housing.

It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the identified existing housing needs, but should establish the maximum number of housing units that can be

constructed, rehabilitated, and conserved over a five-year time frame.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including rental housing, factory-built housing, and mobilehomes, in order to meet the community's housing goals as identified in subdivision (b). The program may include an identification of adequate sites for emergency housing.

(2) Assist in the development of adequate housing to meet the needs of low- and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing.

(4) Conserve and improve the condition of the existing affordable housing stock.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, or color.

The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

SEC. 4. Section 50001 of the Health and Safety Code is amended to read:

50001. The Legislature finds and declares that the subject of housing is of vital statewide importance to the health, safety, and welfare of the residents of this state, for the following reasons:

(a) Decent housing is an essential motivating force in helping people achieve self-fulfillment in a free and democratic society.

(b) Unsanitary, unsafe, overcrowded, or congested dwelling accommodations or lack of decent housing constitute conditions which cause an increase in, and spread of, disease and crime.

(c) A healthy housing market is one in which residents of this state have a choice of housing opportunities and one in which the housing consumer may effectively choose within the free marketplace.

(d) A healthy housing market is necessary both to achieve a

healthy state economy and to avoid an unacceptable level of unemployment.

SEC. 5. Section 50003.3 is added to the Health and Safety Code, to read:

50003.3. The Legislature finds and declares that there exists within the urban and rural areas of the state a significant number of persons without decent, safe, and sanitary housing. This shortage is inimical to the health, safety, and welfare of the residents of this state and the sound growth of its communities. Without the assistance contemplated in this division, it is not financially feasible for private enterprise and private investors to provide decent, safe, and sanitary emergency housing for persons who are homeless.

The Legislature also finds and declares that in order to remedy the emergency shelter shortages, it is necessary to implement a public program incorporating all of the following elements and goals:

(a) An increase in the supply of decent, safe, and sanitary emergency shelters available to the homeless.

(b) Maximum utilization of state, local, and federal subsidies available to meet the emergency shelter needs of the homeless.

(c) Maximum utilization of tax increment moneys generated by city and county redevelopment programs for the construction and maintenance of decent, safe, and sanitary emergency shelters.

(d) Encourage the utilization of unused or underutilized public facilities which could be converted to decent, safe, and sanitary emergency shelters for the homeless.

(e) Preservation of existing housing opportunities for very low income households, including, but not limited to, residential hotels.

(f) Prevention of the displacement of very low income households from existing housing.

SEC. 6. Section 50524 is added to the Health and Safety Code, to read:

50524. The department shall, on or before March 1, 1985, prepare and provide a report to the Legislature evaluating the extent and causes of homelessness in the state, identifying who is homeless and what existing efforts are being made to address the problem, and recommending appropriate state action which will help resolve the problem. It is the intent of the Legislature, that the department utilize and rely upon existing sources of information about the homeless, to the maximum extent feasible, and devote a majority of the amount appropriated by subdivision (c) of Section 7 of the act which enacted this section to develop recommendations of appropriate solutions to resolve that problem. The department shall thereafter include in its statewide housing plan a review of housing assistance policies, goals, and objectives affecting the homeless.

SEC. 7. Section 50800 of the Health and Safety Code is amended and renumbered to read:

50800.5. There is hereby created in the State Treasury the Emergency Housing and Assistance Fund. Notwithstanding Section 13340 of the Government Code, all money in the fund is continuously

appropriated to the department to carry out the purposes of this chapter. Any moneys received by the department pursuant to this chapter or any other source, including repayments, interest, or new appropriations shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Money in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, except the Surplus Money Investment Fund. The department may require the transfer of moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. All interest, dividends, and pecuniary gains from these investments shall accrue to the fund, notwithstanding Section 16305.7 of the Government Code.

SEC. 8. Section 50800 is added to the Health and Safety Code, to read:

50800. It is the intent of the Legislature to encourage the provision of shelter to homeless persons at as low a cost as possible, to encourage people to move from shelters to a self-supporting environment as soon as possible, and to encourage the provision of shelters at as low a cost and as quickly as possible without compromising the health and safety of shelter occupants.

SEC. 8.5. Section 50801 of the Health and Safety Code is amended to read:

50801. As used in this chapter:

(a) "Eligible recipient" means an agency of local government or a nonprofit organization which provides shelter effectively and efficiently to persons on an emergency or temporary basis.

(b) "Department" means the Department of Housing and Community Development.

SEC. 9. Section 50802 of the Health and Safety Code is amended to read:

50802. (a) The department shall adopt guidelines to govern the distribution of funds in accordance with the intent and provisions of this chapter.

(b) Those guidelines shall grant priority for the distribution of funds to eligible recipients who meet any of the following criteria:

(1) To eligible recipients who make a commitment to provide matching funds or in-kind contributions.

(2) To eligible recipients who make a commitment to utilize homeless adults to operate and maintain the shelters and who will assist homeless persons in obtaining permanent shelter, job placement in the private sector, and other alternative sources of support.

(3) To eligible recipients who make a commitment to provide opportunities to homeless adults who have mechanical or construction skills and who are able to assist in the maintenance or rehabilitation of shelters.

SEC. 10. Section 50805 of the Health and Safety Code is repealed.

SEC. 11. Section 50805 is added to the Health and Safety Code, to read:

50805. Grants awarded pursuant to this chapter may be used, with the approval of the department, to purchase, lease, renovate, repair, or equip buildings and sites for use as emergency shelters. The department shall, in ranking and rating applications for grants for these purposes, give priority to those which are the most cost-effective, as determined by the department, in expanding or preserving the housing supply. Any eligible recipient awarded a grant pursuant to this chapter shall be required to use the grant funds to provide emergency shelter to needy persons, to practice nondiscrimination in the provision of shelter, to use no more than 2 percent of the grant funds to defray administrative costs, to use grant funds to supplement, not supplant, other state and local programs providing social services, health care, and housing assistance, and to meet any other qualifications the department finds necessary to carry out the intent of this chapter.

SEC. 12. Section 50806 of the Health and Safety Code is amended to read:

50806. (a) The department shall not award more than two hundred fifty thousand dollars ($250,000) to any eligible recipient under each application.

(b) The department shall use not more than 3 percent of the amounts made available for grants to cover its administrative costs pursuant to this chapter.

(c) The department shall report to the Governor and the Legislature on the use of funds pursuant to this chapter, including, but not limited to, a listing of all grant recipients, the amount of the grant awarded, the purposes to which the grant funds would be put, and the address of the grant recipient.

SEC. 13. Section 50807 is added to the Health and Safety Code, to read:

50807. (a) The department shall establish minimum guidelines for the rehabilitation of emergency shelters to assure their minimum habitability. The guidelines may be adopted by any city, county, or city and county. The guidelines shall assure that the public health, safety, and welfare is protected while recognizing the temporary nature of these facilities and the urgent need for their construction. These guidelines shall be published within 90 days of the effective date of this statute.

(b) Notwithstanding any other provision of law, any city, county, or city and county may waive or change either, or both, of the following:

(1) Any local changes or modifications made pursuant to Section 17958.5.

(2) Requirements for inspection of construction by local officials for structures rehabilitated with funds provided pursuant to this chapter if that waiver or change does not impair the public health and safety. However, no city, county, or city and county shall waive

or change any provision contained in the State Building Standards Code or any state building standard, or adopt any other waiver or change which would authorize changes in the means of egress or the adequacy of exits from buildings necessary for fire protection and prevention.

(c) The department may provide priority to the funding of emergency shelters in jurisdictions which adopt the guidelines established by the department pursuant to subdivision (a) or which adopt the waivers or changes permitted by subdivision (b).

SEC. 14. Section 2 of Chapter 2 of the Statutes of 1975, First Extraordinary Session, is amended to read:

Sec. 2. (a) The sum of five million dollars ($5,000,000) is hereby appropriated from the General Fund for transfer to the Housing Insurance Fund created by Section 51653 of the Health and Safety Code.

Those moneys shall constitute, and be accounted for, as advances to the California Housing Finance Agency, and a like amount shall be repaid to the General Fund in the State Treasury, without interest, in three equal installments on the following dates:

(1) The effective date of the act which amended this section during the 1983–84 Regular Session of the Legislature.

(2) January 1, 1985.

(3) July 1, 1985.

(b) The amount required to be repaid pursuant to subdivision (a) shall be repaid from all revenues of the agency available for the purposes of Part 3 (commencing with Section 50900) of Division 31 of the Health and Safety Code in excess of amounts required for payment of the agency's current operating expenses and amounts necessary to maintain the loan and bond reserve accounts at not less than the loan and bond insurance reserve requirements.

SEC. 15. (a) The sum of five million dollars ($5,000,000), which amount is required to be repaid to the General Fund by the California Housing Finance Agency pursuant to Section 2 of Chapter 2 of the Statutes of 1975, First Extraordinary Session, as amended by Section 14 of this act, is hereby appropriated to the Department of Housing and Community Development for deposit in the Emergency Housing and Assistance Fund established pursuant to Section 50800.5 of the Health and Safety Code.

(b) The Controller shall transfer the amount appropriated pursuant to subdivision (a) in three equal installments on the following dates:

(1) The effective date of this act.

(2) January 1, 1985.

(3) July 1, 1985.

SEC. 16. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide benefits to homeless persons as soon as possible,

it is necessary for this act to take effect immediately.

CHAPTER 1692

An act to add and repeal Chapter 4.5 (commencing with Section 50560) and Chapter 11 (commencing with Section 50780) of Part 2 of Division 31 of the Health and Safety Code, and to add and repeal Section 62.1 of the Revenue and Taxation Code, relating to mobilehome parks, and making an appropriation therefor.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Chapter 4.5 (commencing with Section 50560) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

CHAPTER 4.5. MOBILEHOME PARK ACQUISITION FUND

50560. For purposes of this chapter:

(a) "Agency" means the California Housing Finance Agency.

(b) "Fund" means the Mobilehome Park Acquisition Fund created pursuant to Section 50566.

(c) "Mobilehome" means any housing unit, the construction of which is subject to the provisions of Part 2 (commencing with Section 18000) of Division 13.

(d) "Mobilehome park" means a "mobilehome park" as defined by Section 18214.

(e) "Nonprofit corporation" means a corporation organized pursuant to the Nonprofit Corporation Law (Division 2 (commencing with Section 5000), Title 1, Corporations Code).

50561. The owners of mobilehomes who are tenants in mobilehome parks may form a nonprofit corporation, stock cooperative corporation, or other entity for purposes of converting a mobilehome park to condominium or stock cooperative ownership interests and for purchasing the mobilehome park from the management of the mobilehome park.

50562. The agency shall make loans from the fund to the nonprofit corporations, stock cooperative corporations, or entities formed for the purpose specified in Section 50561. The amount of the loan shall not exceed 80 percent of the purchase price of the mobilehome park. Loan funds may not be used for the acquisition and installation of mobilehomes. The department may provide financing for the balance of the purchase price for purposes of assisting the nonprofit corporation, stock cooperative corporation, or other entity.

50563. The nonprofit corporation, stock cooperative corporation,

or other entity receiving loans pursuant to Section 50562 shall repay to the agency the full amount of the loans over a period not to exceed 40 years and pursuant to a repayment and installment schedule established by the agency. The interest on the loans shall be determined by the agency based on the market rates at the time the loan agreement is entered into.

50564. With respect to the mobilehome park owned by a nonprofit corporation, stock cooperative corporation, or other entity and financed pursuant to this chapter, the agency shall establish the amount of the initial membership payment and shall fix the amount of monthly carrying charges in such a manner as may be necessary to meet the repayment schedule established by the agency pursuant to Section 50563 and to provide the mobilehome park residents with affordable monthly carrying charges to the extent consistent with the maintenance of the financial integrity of the mobilehome park and with the requirements for repayment established by the agency. The nonprofit corporation, stock cooperative corporation, or other entity may not alter monthly carrying charges without the prior permission of the agency, which shall be given only if such an alteration is necessary to avoid jeopardizing the financial integrity of the mobilehome park.

50565. No nonprofit corporation, stock cooperative corporation, or other entity formed for the purpose of acquiring a mobilehome park shall receive more than one loan from the fund.

50566. There is a Mobilehome Park Acquisition Fund in the State Treasury. Notwithstanding Section 13340 of the Government Code, the moneys in the fund are continuously appropriated to the agency for the purposes of this chapter. All moneys received by the agency pursuant to this chapter shall be deposited in the fund.

50567. The agency may, in addition to any other power conferred by this part, issue revenue bonds for the purpose of financing the acquisition of mobilehome parks pursuant to this chapter. All of the proceeds of these revenue bonds shall be deposited in the Mobilehome Park Acquisition Fund.

50567.5. This chapter shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1989, deletes or extends that date.

SEC. 2. Chapter 11 (commencing with Section 50780) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

CHAPTER 11. MOBILEHOME PARK PURCHASE FUND

50780. (a) The Legislature finds and declares as follows:

(1) That manufactured housing and mobilehome parks provide a significant source of homeownership for California residents, but increasing costs of mobilehome park development and construction, combined with the costs of manufactured housing, the costs of financing and operating these parks, the low vacancy rates, and the pressures to convert mobilehome parks to other uses increasingly

render mobilehome park living unaffordable, particularly to those residents most in need of affordable housing.

(2) That state government can play an important role in addressing the problems confronted by mobilehome park residents by providing supplemental financing which makes it possible for mobilehome park residents to acquire the mobilehome parks in which they reside and convert them to resident ownership.

(b) Therefore, it is the intent of the Legislature, in enacting this chapter, to encourage and facilitate the conversion of mobilehome parks to resident ownership, to protect low-income mobilehome park residents from both physical and economic displacement, to obtain a high level of private and other public financing for mobilehome park conversions, and to help establish acceptance for resident-owned mobilehome parks in the private market.

50781. Unless the context otherwise requires, the following definitions given in this section shall control construction of this chapter:

(a) "Affordable" means that, where feasible, low-income residents should not pay more than 30 percent of their monthly income for housing costs.

(b) "Conversion costs" includes the cost of acquiring the mobilehome park, the costs of planning and processing the conversion, the costs of any needed repairs or rehabilitation, and any expenditures required by a government agency or lender for the project.

(c) "Department" means the Department of Housing and Community Development.

(d) "Fund" means the Mobilehome Park Purchase Fund created pursuant to Section 50782.

(e) "Housing costs" means the total cost of owning, occupying, and maintaining a mobilehome and a lot or space in a mobilehome park. The department's regulations shall specify the factors included in these costs and may, for the purposes of calculating affordability, establish reasonable allowances.

(f) "Individual interest in a mobilehome park" means any interest which is fee ownership or a lesser interest which entitles the holder to occupy a lot or space in a mobilehome park for a period of not less than either 15 years or the life of the holder. Individual interests in a mobilehome park include, but are not limited to, the following:

(1) Ownership of a lot or space in a mobilehome park or subdivision.

(2) A membership or shares in a stock cooperative, as defined in Section 11003.2 of the Business and Professions Code, or a limited equity housing cooperative, as defined in Section 33007.5 of the Health and Safety Code.

(3) Membership in a nonprofit mutual benefit corporation which owns, operates, or owns and operates the mobilehome park.

(g) "Low-income resident" means an individual or household who resided in the mobilehome park prior to application for a loan

pursuant to this chapter and who is a lower income household, as defined in Section 50079.5. However, personal assets shall not be considered in the calculation of income, except to the extent that they actually generate income.

(h) "Low-income spaces" means those spaces in a mobilehome park operated by a resident organization which are occupied by low-income residents.

(i) "Mobilehome park" means a mobilehome park, as defined in Section 18214, or a manufactured home subdivision created by the conversion to resident ownership of a mobilehome park, as defined in Section 18214.

(j) "Resident organization" means a group of mobilehome park residents who have formed a nonprofit corporation, cooperative corporation, or other entity or organization for the purpose of acquiring the mobilehome park in which they reside and converting the mobilehome park to resident ownership. The membership of a resident organization shall include at least two-thirds of the households residing in the mobilehome park at the time of application for assistance from the department.

(k) "Resident ownership" means, depending on the context, either the ownership, by a resident organization, as defined in this section, of an interest in a mobilehome park which entitles the resident organization to control the operations of the mobilehome park for a term of no less than 15 years, or the ownership of individual interests in a mobilehome park, or both.

50782. The Mobilehome Park Purchase Fund is hereby created in the State Treasury and, notwithstanding Section 13340 of the Government Code or any other provisions of law, is continuously appropriated to the department for the purpose of providing loans pursuant to this chapter and for related administrative costs of the department. Notwithstanding Section 16305.7 of the Government Code, any moneys received by the department pursuant to this chapter, any other sources, repayments, interest, or new appropriations shall be deposited in the fund. Money in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, except the Surplus Money Investment Fund. The department may require the transfer of moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. Notwithstanding Section 16305.7 of the Government Code, all interest, dividends, and pecuniary gains from the investments shall accrue to the fund.

50783. (a) The department may make loans from the fund to resident organizations for the purpose of financing mobilehome park conversion costs, as defined in this chapter.

(b) Loans provided pursuant to this section shall be for a term of no more than three years and shall bear interest at a rate of 7 percent

per annum.

(c) Loans provided pursuant to this section shall be for the minimum amount necessary to enable a resident organization to acquire and convert the mobilehome park in which its members reside. However, in no case shall the loan amount exceed 50 percent of the approved conversion costs.

50784. (a) The department may make loans from the fund to low-income residents of mobilehome parks converted to resident ownership or to resident organizations which have converted or plan to convert a mobilehome park to resident ownership. The purpose of providing loans pursuant to this section is to reduce the monthly housing costs for low-income residents to an affordable level.

(b) Loans provided pursuant to this section shall be for a term of no more than 30 years and shall bear interest at a rate of 7 percent per annum.

(c) The department may establish flexible repayment terms for loans provided pursuant to this section if the terms are necessary to reduce the monthly housing costs for low-income residents to an affordable level, and do not represent an unacceptable risk to the security of the fund. Flexible repayment terms may include, but are not limited to, graduated payment schedules with negative amortization.

(d) Loans provided to low-income residents pursuant to this section shall be for the minimum amount necessary to reduce the borrower's monthly housing costs to an affordable level. However, in no case shall loan amounts exceed 50 percent of the acquisition costs of the individual interests in the mobilehome parks. In addition, the total indebtedness upon individual interests may not exceed 90 percent of the value of the interests.

(e) Loans provided to resident organizations pursuant to this section shall be for the minimum amount necessary to reduce the monthly housing costs of low-income residents to an affordable level. However, in no case shall the loan amounts exceed 50 percent of the conversion costs attributable to the low-income spaces. Funds provided pursuant to this section shall not be used to assist residents who are not of low income, or to reduce monthly housing costs for low-income residents to less than 30 percent of their monthly income.

50785. In determining the eligibility for and amount of loans pursuant to Sections 50783 and 50784, the department shall take into consideration, among other factors, all of the following:

(a) The reasonableness of the conversion costs relating to repairs, rehabilitation, construction, or other costs.

(b) Any administrative and security factors affecting the department's program operation and administration.

(c) Whether or not the projects complement the implementation of a local housing program to preserve or increase the supply of housing for persons and families of low or moderate income.

(d) Whether or not state funds are utilized in the most efficient

and effective manner.

To the extent consistent with requests for assistance, the department shall allocate funds available for the purposes of this chapter throughout the state in accordance with identified housing needs, including seeking to allocate not less than 20 percent to rural areas.

50786. (a) The department shall promulgate rules and regulations for the administration and implementation of this chapter.

(b) The department shall obtain the best available security for loans made pursuant to this chapter. The security may include a note, deed of trust, assignment of lease, or other form of security on real or personal property which the department determines is adequate to protect the interests of the state. To the extent applicable, these documents and any regulatory provisions shall be recorded or referenced in a recorded document in the office of the county recorder of the county in which the mobilehome park is located.

(c) The degree of continuing regulatory control with respect to park operations and resident loans exercised by the department in making loans pursuant to this chapter shall be commensurate with the level of financial assistance provided and in all cases shall be adequate to protect the state's security interest and assure the accomplishment of the purposes of the program authorized by this chapter. The regulatory requirements shall be set forth in a regulatory agreement, deed of trust, or other lien, and violation of these requirements shall be considered a violation of a security document.

(d) Before providing financing pursuant to this chapter, the department shall require provision of, and approve, at least the following:

(1) Verification that at least two-thirds of the households residing in the mobilehome park support the plans for acquisition and conversion of the park.

(2) Verification that either no park residents will be involuntarily displaced as a result of the park conversion or the impacts of the displacement will be mitigated as required under state and local law.

(3) Verification that the conversion is consistent with local zoning and land use requirements, other applicable state and local laws, and regulations and ordinances.

(4) Projected costs and sources of funds for all conversion activities.

(5) Projected operating budget for the park during and after the conversion.

(6) A management plan for the conversion and operation of the park.

(7) If necessary, a relocation plan for residents not participating which is in compliance with Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code.

(e) The department shall, to the greatest extent feasible, contract

with private lenders or units of local government to service loans made pursuant to this chapter.

50787. Within two years of the completion of the mobilehome park conversions financed pursuant to this chapter, but in no event later than January 1, 1989, the department shall undertake an evaluation of the conversions to determine the feasibility and desirability of establishing a more comprehensive program of state assistance for mobilehome park conversions. The department shall submit this report with its recommendations to the Legislature no later than July 1, 1989. This report shall also include an examination of the financial, governmental, and institutional constraints to the conversion of mobilehome parks; the impact of park conversions upon low-income residents; the characteristics of persons who moved from the parks during the conversion process or within one year of the conversion; the costs of acquiring interests in converted parks, the monthly costs of remaining in the parks, and the affordability of those costs to the residents; the distribution and average income and assets of the residents; data, if any, on loan delinquencies and defaults; the costs of acquiring and converting mobilehome parks to resident ownership and recommendations on ways in which the costs can be reduced; and a comparison of the different resident ownership structures financed pursuant to this chapter.

50788. This chapter shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1989, deletes or extends that date.

SEC. 3. Section 62.1 is added to the Revenue and Taxation Code, to read:

62.1. Change in ownership shall not include any transfer, on or after January 1, 1985, of a mobilehome park to a nonprofit corporation, stock cooperative corporation, or other entity, as described in Section 50561 of the Health and Safety Code, formed by the tenants of a mobilehome park for the purpose of purchasing the mobilehome park.

This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1989, deletes or extends that date.

SEC. 4. The amount of three million dollars ($3,000,000) is hereby appropriated from the Mobilehome-Manufactured Home Revolving Fund, contained in Section 18016.5 of the Health and Safety Code, to the Mobilehome Park Purchase Fund for the following purposes and to be apportioned according to the following schedule:

(a) Two million eight hundred thousand dollars ($2,800,000) for loans made pursuant to Chapter 11 (commencing with Section 50780) of Part 2 of Division 31 of the Health and Safety Code.

(b) Two hundred thousand dollars ($200,000) for the costs of administering the above-cited Chapter 11.

CHAPTER 1693

An act to amend Section 15364.5 of, and to add and repeal Chapter 5 (commencing with Section 15390) of Part 6.7 of Division 3 of Title 2 of, the Government Code, relating to export financing, and making an appropriation therefor.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

I am reducing the appropriation to the Export Finance Fund contained in Section 3 of Senate Bill No. 1196 from $9,750,000 to $2,000,000.

The reduced appropriation is adequate start-up funding for this worthwhile program. The $250,000 appropriation for administrative costs has been left intact.

With this reduction, I approve Senate Bill No. 1196.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 15364.6 of the Government Code is amended to read:

15364.6. (a) In order to assist the commission in representing the diverse nature of California's culture and economy, and its business, tourism, and agricultural communities, an advisory council is hereby created to provide independent advice and counsel.

(b) The membership of the advisory council shall be no less than 20 members, nor more than 40 members. The advisory council shall be appointed within 120 days of the effective date of this chapter.

(c) The membership of the advisory council shall consist of the following:

(1) The Director of the Department of Commerce.

(2) The Director of the Department of Food and Agriculture.

(3) The Superintendent of Banks.

(4) Two Assembly appointees of the Speaker of the Assembly.

(5) Two Senate appointees of the Senate President pro Tempore.

(d) The remainder of the advisory council appointments shall be made by the commission and shall represent the following areas of interest:

(1) Agriculture.

(2) Banking and financial services.

(3) International consulting, construction, engineering and trade.

(4) Tourism.

(5) Manufacturing and retailing.

(6) Foreign trade zones and trade associations.

(7) Entertainment.

(8) Housing and real estate.

(9) Education.

(10) Labor.

(11) Transportation and ports.

(12) Small businesses.

(13) Other entities as deemed appropriate.

(e) At the direction of the commission, the advisory council shall do the following:

(1) Form committees to assist the commission in areas which may include, but are not limited to, international trade, reverse investment, and international tourism.

(2) Aid and assist the commission in securing funds to enhance and maintain the activities of the commission.

(3) Aid and assist the commission in greeting foreign representatives.

(4) Participate in foreign missions.

SEC. 2. Chapter 5 (commencing with Section 15390) is added to Part 6.7 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 5. EXPORT FINANCE PROGRAM

Article 1. General Provisions

15390. This chapter shall be known and may be cited as the "California Export Finance Program Law."

15390.1. The Legislature finds and declares that the expansion of export trade is vital to the overall health and growth of California's economy, and that many small and medium-sized California businesses and agricultural enterprises could benefit from additional financial and technical assistance. The Legislature further finds and declares that the U.S. Export-Import Bank has been mandated by the Export-Import Bank Act Amendments of 1983 to provide technical assistance and export financing support to small businesses in cooperation with state export finance agencies. Finally, the Legislature finds and declares that California-based small and medium-sized exporters can be effectively assisted through the establishment of a California Export Finance Program designed to work with the U.S. Export-Import Bank and other federal, state, and private institutions to provide California exporters with information, technical assistance, and financial resources in support of greater California exports.

15390.2. It is the intention of the Legislature in enacting this chapter to expand job opportunities for California's workforce by increasing the export of California goods, services, and agricultural commodities by small and medium-sized businesses and agricultural enterprises through the provision of information, technical assistance, and financial support. Furthermore, it is the intention of the Legislature not to duplicate existing programs, but to coordinate, assist, augment, and improve the access to those programs by California-based exporters.

Article 2. Definitions

15391. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter.

(a) "Financial institution" means any California bank or savings and loan association regulated by the State of California or the United States government; any insurance company authorized to transact business in California; any personal property broker or industrial loan company which is regulated by this state; and any other person whose primary business is lending money and is regulated by this state.

(b) "Board" means the California Export Finance Board.

(c) "Commission" means the California State World Trade Commission provided for in Chapter 1.5 (commencing with Section 15364.1).

(d) "Executive Director" means the chief executive officer of the California State World Trade Commission.

(e) "Director" means the director of the California Export Finance Office.

(f) "Office" means the California Export Finance Office.

Article 3. California Export Finance Office

15392. There is hereby created in the California State World Trade Commission the California Export Finance Office. Its purpose is to expand employment and income opportunities for Californians through increased exports of California goods, services, and agricultural commodities by providing actual and potential California exporters, specifically small and medium-sized exporters, with information and technical assistance on export opportunities and exporting techniques and financial assistance in support of export transactions.

15392.1. (a) The California Export Finance Board shall appoint a Director of the California Export Finance Office from a list of nominees submitted by the executive director of the commission. The director shall be knowledgeable about private and public export assistance and export financing programs.

(b) The director shall serve at the pleasure of the executive director of the commission and shall receive a salary and benefits as shall be fixed by the board upon the recommendation of the executive director of the commission.

(c) The director shall administer the programs of the office and perform such duties as shall be delegated by the board.

15392.2. The director may, upon approval of the board:

(a) Contract for services.

(b) Hold public hearings.

(c) Call upon and reimburse for services any state agency or department for assistance in carrying out the objectives of this chapter.

(d) Participate with government or private industry in programs for technical assistance, loans, technology, transfer, or any other programs related to this chapter.

(e) Undertake or commission studies on methods to increase financial resources to expand the exports of California goods and services.

(f) Exercise any other powers as may be necessary to carry out the purposes of this chapter.

(g) Provide export finance training for office staff and other individuals involved in export finance assistance, including such training sessions as may be provided by the U.S. Export-Import Bank or other organizations.

15392.3. The California Export Finance Office shall have the power and authority to carry out the following functions:

(a) To coordinate to the maximum extent possible the efforts of the California Export Finance Office with programs and goals of the United States Export-Import Bank, the International Trade Administration of the U.S. Department of Commerce, the Foreign Credit Insurance Association, and other private and public programs designed to provide export assistance and export-related financing.

(b) To establish a network of contacts among those public and private organizations which provide information, technical assistance, and financial support of exporting.

(c) To assemble, publish, and disseminate information to California exporters on export opportunities, techniques of exporting, sources of public and private export assistance, and sources of export related financing.

(d) To organize, host, and participate in seminars and other forums designed to disseminate information and technical assistance on exporting and export-related financing to actual and potential California exporters.

(e) To provide individual firms and agricultural enterprises with information and technical assistance related to exporting and export financing.

(f) To insure, co-insure, and guarantee loans related to qualified export transactions pursuant to regulations adopted by the board.

Article 4. California Export Finance Board

15394. (a) There is hereby created the California Export Finance Board in the California Export Finance Office. The board shall consist of seven members as follows:

(1) The Director of Food and Agriculture or his or her designee.

(2) The Executive Director of the Office of Small Business Development or his or her designee.

(3) One appointment by the Governor. The appointee shall be knowledgeable about, and experienced in, the exporting and export finance needs of California agriculture.

(4) Two appointments from export firms, one each by the World

Trade Commission and the Speaker of the Assembly.

(5) Two appointments from financial institutions, one each by the California State World Trade Commission and the President pro Tempore of the Senate.

Export representatives appointed under paragraph (4) shall be experienced in exporting, knowledgeable about the needs and problems of small and entrepreneurial exporters, and actively employed with an exporting firm, export trading company, or export management company.

Financial institution representatives appointed under paragraph (5) shall be experienced in export financing, knowledgeable about the export financing needs and problems of small and entrepreneurial exporters, and actively employed with a financial institution.

Appointments by the California State World Trade Commission shall be drawn, and all other appointments may be drawn, from the membership of the California State World Trade Commission and its advisory council.

(b) The appointed members to the board referred to in subdivision (a) shall be appointed within 30 days of the effective date of this chapter.

(c) Upon appointment of at least three members under paragraphs (3), (4), and (5) of subdivision (a), the board may commence formal action pursuant to this chapter, but in no case shall this be later than 60 days after the effective date of this chapter.

(d) The Chairperson of the California State World Trade Commission shall call the initial meeting of the board, serve as interim chair of the board until a chair has been elected, and provide other assistance related to the startup of the program as is necessary and reasonable.

(e) The initial appointments of the commission and the Governor under subdivision (a) shall be for three-year terms. The remaining appointments under subdivision (a) and all subsequent appointments shall be for two-year terms. Appointees shall serve at the pleasure of the appointing authority and vacancies shall be filled by the appointing authority.

(f) Board members who are not employees of the state shall receive one hundred dollars ($100) for each day they attend board meetings, per diem equal to that received by state employees, or reimbursement for actual and necessary expenses in attending board meetings and conducting board business as determined by the board.

15394.1. The board shall do all of the following:

(a) Elect a chair and vice chair from among its members. The chair shall preside at meetings of the board.

(b) Implement the California Export Finance Program Law, promulgate rules and regulations which are necessary to carry out the responsibilities under this chapter, particularly with respect to establishing California Export Finance Office programs to insure, coinsure, and provide loan guarantees to support export transactions

prior to the expenditure of moneys from the Export Finance Fund. The board shall ensure such programs conform to international trade agreements of the United States. The programs' rules and regulations shall be reviewed and approved by the commission prior to final adoption by the board.

(c) Adopt subsequent bylaws as are required to govern the conduct and operation of the board.

(d) Provide for the appointment of advisory groups necessary to carry out the powers and duties of the board.

(e) Hold regularly scheduled meetings, at least quarterly, in order to carry out the objectives and responsibilities of the board.

(f) Issue an annual report critiquing the program, its needs and recommended changes. The report shall include an evaluation of the program's impact on all of the following:

(1) Participation of private banks in export financing programs.

(2) Access of California firms to federal export financing programs.

(3) Export volume of California firms.

(4) Other economic and social benefits to the state.

(g) Adopt criteria establishing which exporters and export transactions shall be eligible for the insurance, coinsurance, and loan guarantees as may be extended by the board. Pursuant to this subdivision, the board shall adopt regulations to ensure that all of the following criteria are met:

(1) Borrowers have a minimum equity interest in the business as determined by the board.

(2) That loan guarantees, insurance, and coinsurance are extended exclusively to support the export of goods, services, and agricultural commodities produced or grown primarily in California by companies or agricultural enterprises which are domiciled in California as defined by subdivision (b) of Section 25120 of the Revenue and Taxation Code.

(3) That financing assistance using state funds shall only be extended in one or both of the following circumstances:

(A) As part of a state match which may be required to secure participation of California firms or agricultural enterprises in federal, state, or private financing programs.

(B) If adequate financing assistance is not readily available from public or private sources in a timely manner.

(h) Adopt collateral or security requirements to ensure the full repayment of loan guarantees and solvency of any insurance and coinsurance program extended under this chapter and to assist in evaluating the program.

(i) Approve any and all extensions of insurance, coinsurance, or loan guarantees under this chapter. The board may elect to delegate this approval authority to a committee consisting of no fewer than three members of the board. Members of the committee shall be knowledgeable in the export financing needs of small or medium-sized businesses, agriculture, or financial institutions.

(j) Consult with the Department of Commerce to ensure that the respective loan guarantee programs are not duplicative and that each program makes full use of, to the extent practicable, the resources of the other.

(k) Work to secure a delegated line of authority from the U.S. Export-Import Bank in order to take advantage of this possible new federal funding source.

(*l*) Develop a streamlined application and review process.

Article 5. Export Finance Fund

15395. There is hereby created in the State Treasury the Export Finance Fund.

15395.1. The Export Finance Fund is created solely for the purposes of receiving state, federal, and private moneys and the return from investments of those moneys by the Treasurer for allocation by the board to the export finance program pursuant to the purposes of this chapter.

15395.2. All money deposited in the Export Finance Fund is hereby continuously appropriated, without regard to fiscal years, for the purposes of this chapter.

15395.3. The state shall not be liable or obligated in any way beyond the state money which is allocated and deposited in the Export Finance Fund from state money which is appropriated for those purposes.

15395.4. The board may request the Treasurer to invest those funds in the Export Finance Fund which are not immediately encumbered by administrative or program costs, in securities issued by the Treasury of the United States government or the government of the State of California. Returns from these investments shall be deposited in the Export Finance Fund and shall be used to support loan guarantees, insurance, and coinsurance as provided by this chapter.

15395.5. The funds in the Export Finance Fund shall be paid out by the Treasurer on warrants drawn by the Controller and requisitioned by the board in furtherance of the purposes of this chapter.

Article 6. Powers and Limitations

15396. The California Export Finance Office may charge fees to help defray the operating expenses of the program. The amount of the fees shall be determined by the board.

15396.1. Loan guarantees and insured export transactions made by the California Export Finance Office shall be secured by no less than a 25 percent reserve in the Export Finance Fund. The board may elect to require a higher reserve. The board shall adopt regulations on the terms and limits for loan guarantees, but in no case shall a loan guarantee exceed any of the following:

(a) Seventy percent of the required financing. However, the board may elect to guarantee up to 85 percent of the required financing provided there is evidence of lender credit exposure and adequate analysis of foreign commercial and political risk.

(b) Three hundred fifty thousand dollars ($350,000).

(c) The lesser of five years or the useful life of the product.

15396.2. The director shall submit an annual budget, as part of the commission's budget, for inclusion in the Governor's Budget, showing funding from all sources.

15396.3. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

SEC. 3. The sum of ten million dollars ($10,000,000) is hereby appropriated from the General Fund, of which nine million seven hundred fifty thousand dollars ($9,750,000) is appropriated to the Export Finance Fund established pursuant to Section 15395 of the Government Code, and two hundred fifty thousand dollars ($250,000) is appropriated to the California State World Trade Commission Fund for the administrative costs of the California Export Finance Office for the 1984–85 fiscal year.

CHAPTER 1694

An act making an appropriation to pay the claims of the Secretary of the State Board of Control, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

I am reducing the General Fund appropriation contained in Assembly Bill No. 3079 by $51,442 to eliminate payment of the following four claims: Los Gatos Union School District $19,506; YMCA of Santa Clara Valley $5,225; B J. Miller $1,711; and B.C. Wood $25,000

Sufficient justification has not been provided to substantiate payment of these claims.

With these reductions, I approve Assembly Bill No. 3079.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. The sum of six hundred forty thousand four hundred seventy-one dollars and seventy-two cents ($640,471.72) is hereby appropriated from the funds indicated below to the State Board of Control to pay the claims of the Secretary of the State Board of Control:

General Fund	$ 196,602.44
Employment Development Department Contingent Fund	65.08
Contingent Fund of the Board of Medical Quality Assurance	166.87
Fish & Game Preservation Fund	244,235.82
Public Employees Retirement Fund	431.00
State Teachers Retirement Fund	416.89
Stephen P. Teale Data Center Revolving Fund	67.59
Transportation Fund, Aeronautics Account	3.44
Transportation Fund, Motor Vehicle Account	3,430.30
Transportation Fund, Motor Vehicle Account (CHP)	2,051.80
Transportation Fund, Motor Vehicle Account (DMV)	10.80
Transportation Fund, State Highway Account	5,895.69
Transportation Tax Fund	80.00
Unemployment Compensation Disability Fund	498.91
Unemployment Fund	285.28
Water Resouces Revolving Fund	44,102.39
Item 0820-001-001(a), Budget Act of 1984	512.36
Item 0860-001-001(b), Budget Act of 1984	3,960.05
Item 1400-048-108, Budget Act of 1984	3,500.00
Item 1700-001-001(b), Budget Act of 1984	6,511.90
Item 1730-001-001(a), Budget Act of 1984	946.29
Item 1730-001-001(b), Budget Act of 1984	289.00
Item 1760-021-666(a), Budget Act of 1984	2,129.13
Item 1880-001-001(d), Budget Act of 1984	2,141.52
Item 1970-011-001(a), Budget Act of 1984	271.58
Item 2290-001-217(d), Budget Act of 1984	10.00
Item 2660-001-042(a), Budget Act of 1984	10,620.37
Item 2720-001-044(a), Budget Act of 1984	10,732.50
Item 3360-001-465(a), Budget Act of 1984	731.13
Item 3360-001-465(b), Budget Act of 1984	96.85
Item 3540-001-001(c), Budget Act of 1984	324.08
Item 3790-001-001(a), Budget Act of 1984	1,885.30
Item 3790-001-001(b), Budget Act of 1984	480.00
Item 4140-001-001(a), Budget Act of 1984	40.00
Item 4200-001-001(c), Budget Act of 1984	5,439.02
Item 4260-001-001(a), Budget Act of 1984	15,622.93
Item 4260-001-001(b), Budget Act of 1984	10,218.68
Item 4300-111-001(a), Budget Act of 1984	4,555.41
Item 4440-011-001(c), Budget Act of 1984	3,694.61
Item 5100-001-870(a), Budget Act of 1984	2,141.55
Item 5180-001-001(f), Budget Act of 1984	9,176.10
Item 5180-101-001(c), Budget Act of 1984	2,000.00
Item 5240-001-001(a), Budget Act of 1984	1,584.37
Item 5240-001-001(b), Budget Act of 1984	18.50

Item 5240-001-001(c), Budget Act of 1984	1,142.09
Item 5460-001-001(b), Budget Act of 1984	4,507.26
Item 5460-001-001(d), Budget Act of 1984	1,255.96
Item 6100-001-001(d), Budget Act of 1984	687.34
Item 6100-006-001(a), Budget Act of 1984	1,891.12
Item 6610-001-001(a), Budget Act of 1984	2,086.40
Item 6610-001-001(e), Budget Act of 1984	11,973.73
Item 8260-001-001(a), Budget Act of 1984	3,944.00
Item 8350-001-001(i), Budget Act of 1984	1,657.94
Item 8570-001-001(h), Budget Act of 1984	122.43
Item 8660-001-412(a), Budget Act of 1984	13,225.92
Total	$ 640,471.72

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to settle claims against the state and to end hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 1695

An act to amend Section 40070 of, and to add Section 40071 to, the Education Code, relating to education, and making an appropriation therefor.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

I am deleting the $80,000 appropriation contained in Section 2 of Assembly Bill No. 2639.

The proposed program to train instructional personnel for training farm labor vehicle drivers could be provided as part of the School Bus Driver Instructor program currently existing in the Department of Education.

With this deletion, I approve Assembly Bill No. 2639.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 40070 of the Education Code is amended to read:

40070. The State Department of Education shall develop a course for the training of farm labor vehicle drivers that will provide them with the skills and knowledge necessary to prepare them for an examination for certification pursuant to Section 12519 of the Vehicle Code. The department shall seek the advice and assistance of the

Department of Motor Vehicles and the Department of the California Highway Patrol in developing such a course.

The department shall train the necessary instructional personnel to conduct the course, shall furnish all instructional and training materials used in the course, and shall assure that the course is properly taught and conducted.

Each person who is trained by the department to be qualified as instructional personnel to conduct the course shall pay a fee of three hundred dollars ($300). The department shall remit these fees to the General Fund.

The department may enter into agreements with any public agency in order to implement the provisions of this section.

SEC. 2. Section 40071 is added to the Education Code, to read:

40071. The sum of eighty thousand dollars ($80,000) is hereby appropriated from the General Fund to the State Department of Education for the purposes of Section 40070.

CHAPTER 1696

An act to amend Sections 25356.1 and 25356.2 of the Health and Safety Code, relating to hazardous substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 25356.1 of the Health and Safety Code, as amended by Chapter 376 of the Statutes of 1984, is amended to read:

25356.1. (a) The department, or, if appropriate, the regional water quality control board shall prepare or approve remedial action plans for all sites listed pursuant to Section 25356.

(b) A potentially responsible party may request the department or the regional water quality control board, when appropriate, to prepare or approve a remedial action plan for any site not listed pursuant to Section 25356 if the department or the State Water Resources Control Board determines that a removal or remedial action is required to respond to a release of a hazardous substance. The department or the state board shall respond to a request to prepare or approve a remedial action plan within 90 days of receipt. This subdivision does not affect the authority of any regional water quality control board to issue and enforce a cleanup and abatement order pursuant to Section 13304 of the Water Code or a cease and desist order pursuant to Section 13301 of the Water Code.

(c) All remedial action plans prepared or approved pursuant to this section shall be based upon Section 25350, Subpart F of the National Oil and Hazardous Substances Pollution Contingency Plan

(40 C.F.R. Sec. 300.61 et seq.) and upon all of the following factors, to the extent that these factors are consistent with these federal regulations and do not require a less stringent level of cleanup than these federal regulations:

(1) Health and safety risks posed by the conditions at the site. When considering these risks, the department or the regional water quality control board shall consider scientific data and reports which may have a relationship to the site.

(2) The effect of contamination or pollution levels upon present, future, and probable beneficial uses of contaminated, polluted, or threatened resources.

(3) The effect of alternative remedial action measures on the reasonable availability of groundwater resources for present, future, and probable beneficial uses.

(4) Site specific characteristics, including the potential for offsite migration of hazardous substances, the surface or subsurface soil, and the hydrogeologic conditions, as well as preexisting background contamination levels.

(5) Cost-effectiveness of alternative remedial action measures.

(d) A remedial action plan prepared or approved pursuant to this section shall include a statement of reasons setting forth the basis for the removal and remedial actions selected. The statement shall include an evaluation of each proposed alternative submitted to, or prepared by, the department or the regional water quality control board for a particular site. The statement shall also include an evaluation of the consistency of the removal and remedial actions proposed by the plan with the federal regulations and factors specified in subdivision (c) and shall set forth the reasons for rejection of alternative removal and remedial actions. The statement shall also include a nonbinding preliminary allocation of responsibility among all identifiable potentially responsible parties at a particular site, including those parties which may have been released, or may otherwise be immune, from liability pursuant to this chapter or any other provision of law. Before adopting a final remedial action plan, the department or the regional water quality control board shall prepare or approve a draft remedial action plan and shall do all of the following:

Circulate the draft plan for at least 30 days for public comment.

(2) Notify affected local and state agencies of the removal and remedial actions proposed in the remedial action plan and publish a notice in a newspaper of general circulation in the area affected by the draft remedial action plan. The department or the regional water quality control board shall also post notices in the location where the proposed removal or remedial action would be located and shall notify, by direct mailing, the owners of property contiguous to the site addressed by the plan, as shown in the latest equalized assessment roll.

(3) Hold one or more meetings with the lead and responsible agencies for the removal and remedial actions, the potentially

responsible parties for the removal and remedial actions, and the interested public, to provide the public with the information which is necessary to address the issues which concern the public. The information to be provided shall include an assessment of the degree of contamination, the characteristics of the hazardous substances, an estimate of the time required to carry out the removal and remedial actions, and a description of the proposed removal and remedial actions.

(4) Comply with Section 25358.7.

(e) After complying with subdivision (d), the department or the regional water quality control board shall review and consider any public comments, and shall revise the draft plan, if appropriate. The department or the regional water quality control board shall then issue the final remedial action plan.

(f) A potentially responsible party named in the adopted remedial action plan issued by the department may seek judicial review of the remedial action plan pursuant to Section 1085 of the Code of Civil Procedure within 30 days after the adopted plan is issued. If a potentially responsible party does not file for judicial review within 30 days after the adopted remedial action is issued the remedial action plan is deemed final for purposes of this chapter.

For purposes of judicial review, the court shall uphold the adopted remedial action plan as final if the plan is based upon substantial evidence available to the department or the regional water quality control board, as the case may be.

(g) The filing of a petition pursuant to subdivision (f) seeking judicial review of a remedial action plan does not stay any remedial or removal action.

(h) This section does not require the department or a regional water quality control board to prepare a remedial action plan if conditions present at a site present an imminent or substanital endangerment to the public health and safety or to the environment.

(i) Article 2 (commencing with Section 13320), Article 3 (commencing with Section 13330), Article 5 (commencing with Section 13350), and Article 6 (commencing with Section 13360) of Chapter 5 of Division 7 of the Water Code apply to any action or failure to act by a regional water quality control board pursuant to this section.

SEC. 2. Section 25356.1 of the Health and Safety Code, as added by Chapter 376 of the Statutes of 1984, is amended to read:

25356.1. (a) The department, or, if appropriate, the regional water quality control board shall prepare or approve remedial action plans for all sites listed pursuant to Section 25356.

(b) A potentially responsible party may request the department or the regional water quality control board, when appropriate, to prepare or approve a remedial action plan for any site not listed pursuant to Section 25356 if the department or the State Water Resources Control Board determines that a removal or remedial action is required to respond to a release of a hazardous substance.

The department or the state board shall respond to a request to prepare or approve a remedial action plan within 90 days of receipt. This subdivision does not affect the authority of any regional water quality control board to issue and enforce a cleanup and abatement order pursuant to Section 13304 of the Water Code or a cease and desist order pursuant to Section 13301 of the Water Code.

(c) All remedial action plans prepared or approved pursuant to this section shall be based upon Section 25350, Subpart F of the National Oil and Hazardous Substances Pollution Contingency Plan (40 C.F.R. Sec. 300.61 et seq.), and upon all of the following factors, to the extent that these factors are consistent with these federal regulations and do not require a less stringent level of cleanup than these federal regulations:

(1) Health and safety risks posed by the conditions at the site. When considering these risks, the department or the regional water quality control board shall consider scientific data and reports which may have a relationship to the site.

(2) The effect of contamination or pollution levels upon present, future, and probable beneficial uses of contaminated, polluted, or threatened resources.

(3) The effect of alternative remedial action measures on the reasonable availability of groundwater resources for present, future, and probable beneficial uses.

(4) Site specific characteristics, including the potential for offsite migration of hazardous substances, the surface or subsurface soil, and the hydrogeologic conditions, as well as preexisting background contamination levels.

(5) Cost-effectiveness of alternative remedial action measures.

(d) A remedial action plan prepared or approved pursuant to this section shall include a statement of reasons setting forth the basis for the removal and remedial actions selected. The statement shall include an evaluation of each proposed alternative submitted to, or prepared by, the department or the regional water quality control board for a particular site. The statement shall also include an evaluation of the consistency of the removal and remedial actions proposed by the plan with the federal regulations and factors specified in subdivision (c) and shall set forth the reasons for rejection of alternative removal and remedial actions. The statement shall also include a nonbinding preliminary allocation of responsibility among all identifiable potentially responsible parties at a particular site, including those parties which may have been released, or may otherwise be immune, from liability pursuant to this chapter or any other provision of law. Before adopting a final remedial action plan, the department or the regional water quality control board shall prepare or approve a draft remedial action plan and shall do all of the following:

(1) Circulate the draft plan for public comment for at least 30 days.

(2) Notify affected local and state agencies of the removal and

remedial actions proposed in the remedial action plan and publish a notice in a newspaper of general circulation in the area affected by the draft remedial action plan. The department or regional water quality control board shall also post notices in the location where the proposed removal or remedial action would be located and shall notify, by direct mailing, the owners of property contiguous to the site addressed by the plan, as shown in the latest equalized assessment roll.

(3) Hold one or more meetings with the lead and responsible agencies for the removal and remedial actions, the potentially responsible parties for the removal and remedial actions, and the interested public, to provide the public with the information which is necessary to address the issues which concern the public. The information to be provided shall include an assessment of the degree of contamination, the characteristics of the hazardous substances, an estimate of the time required to carry out the removal and remedial actions, and a description of the proposed removal and remedial actions.

(4) Comply with Section 25358.7.

(e) After complying with subdivision (d), the department or the regional water quality control board shall review and consider any public comments, and shall revise the draft plan, if appropriate. The department or the regional water quality control board shall then issue the final remedial action plan.

(f) A potentially responsible party named in the final remedial action plan issued by the department or the regional water quality control board may seek judicial review of the final remedial action plan pursuant to Section 1085 of the Code of Civil Procedure within 30 days after the final plan is issued. The filing of a petition seeking judicial review of a final remedial action plan shall not stay any removal or remedial action specified in the final plan.

For purposes of judicial review, the court shall uphold the final remedial action plan if the plan is based upon substantial evidence available to the department or the regional water quality control board, as the case may be. This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction, including, but not limited to, enjoining the expenditure of funds pursuant to paragraph (2) of subdivision (b) of Section 25385.6.

(g) This section does not require the department or a regional water quality control board to prepare a remedial action plan if conditions present at a site present an imminent or substantial endangerment to the public health and safety or to the environment.

(h) Article 2 (commencing with Section 13320), Article 3 (commencing with Section 13330), Article 5 (commencing with Section 13350), and Article 6 (commencing with Section 13360) of Chapter 5 of Division 7 of the Water Code apply to any action or failure to act by a regional water quality control board pursuant to this section.

SEC. 3. Section 25356.2 of the Health and Safety Code, as added

by Chapter 376 of the Statutes of 1984, is amended to read:

25356.2. There is hereby created in the Office of the Secretary of Environmental Affairs a Hazardous Substance Cleanup Arbitration Panel.

The panel shall apportion liability for the costs of removal and remedial actions in accordance with Sections 25356.3 and 25356.4. All meetings of the panel are exempt from Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of, and Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of, the Government Code.

The panel shall be comprised of independent private arbitrators who have applied to the Office of the Secretary of Environmental Affairs for membership on the panel. Panel members shall have (a) relevant arbitration background and (b) expertise in engineering, expertise in the physical, biological, or health sciences, or other relevant experience and qualifications. Three arbitrators shall be selected from the panel to apportion liability for a single hazardous waste site. A majority of the arbitrators selected for a single site may apportion liability for the panel under this chapter.

The arbitrators shall be selected for an individual hazardous waste site as follows:

(a) One arbitrator shall be selected by the department.

(b) One arbitrator shall be selected by the potentially responsible party, or a majority of the potentially responsible parties, who have submitted to binding arbitration by the panel.

(c) The two arbitrators selected pursuant to subdivisions (a) and (b) shall jointly select a third arbitrator.

SEC. 4. Section 2 of this bill incorporates amendments to Section 25356.1 of the Health and Safety Code proposed by both this bill and AB 3181. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 25356.1 of the Health and Safety Code, (3) this bill is enacted after AB 3181, and (4) the voters adopt the Hazardous Substance Cleanup Bond Act of 1984, as set forth in Section 18 of Chapter 376 of the Statutes of 1984, in which case Section 1 of this bill shall not become operative.

SEC. 5. Except as provided in Section 3, this act shall become operative upon the adoption by the voters of the Hazardous Substance Cleanup Bond Act of 1984, as set forth in Section 18 of Chapter 376 of the Statutes of 1984.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the health and welfare of the public and the environment from the dangers of hazardous waste by providing for public input into the plans to cleanup these wastes, it is necessary that this act take effect immediately.

CHAPTER 1697

An act to amend Sections 54653, 60602, and 60603.5 of, and to add Sections 54651.5, 54653.5, and 54657.7 to, the Education Code, relating to education, and making an appropriation therefor.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. It is the intent of the Legislature in enacting this act to require that the test instrument used in the California Assessment Program in grade 12 is updated, made more rigorous, and include additional subject areas. It is further the intent of the Legislature that the revisions to the test instrument be made available for administration in the 1985–86 school year and provide for an increased emphasis on the development of critical thinking skills for these pupils, and that the test instrument more adequately reflect subject matters required by Section 51225.3 of the Education Code.

SEC. 2. Section 54651.5 is added to the Education Code, to read:

54651.5. (a) In developing composite ratings of each school's performance, the Superintendent of Public Instruction shall ensure that equivalent questions from the tests administered pursuant to Section 60603 are compared from fiscal year to fiscal year. For fiscal years in which changes are made in the subject matter or skill level of the tests, the superintendent shall calculate two composite ratings, as follows:

(1) A rating that includes only those subjects and skill levels which are comparable to those of the prior fiscal year.

(2) A rating which reflects all subjects and skill levels included in the revised test instrument.

(b) The State Board of Education shall use the composite rating calculated pursuant to paragraph (1) of subdivision (a) to calculate incentive funding in the first fiscal year the revised test is administered. The composite rating calculated pursuant to paragraph (2) of subdivision (a) shall be used to calculate incentive funding each fiscal year thereafter.

SEC. 3. Section 54653 of the Education Code is amended to read:

54653. Beginning with the 1984–85 fiscal year, and each fiscal year thereafter, the State Board of Education shall compute the change in the performance of each school as measured by the change in the composite rating from the prior year. Except as otherwise provided in Section 54653.5, a school which demonstrates an improved performance from the prior year shall earn incentive funding in the fiscal year in which the performance improvement occurred. The State Board of Education shall compute the incentive funding earned by each school pursuant to this section as follows:

(a) For each school which demonstrates an improved

performance, multiply the increase in the composite score of the school by the number of pupils in that school who took the test during the fiscal year in which the increase occurred.

(b) Add the individual products computed pursuant to subdivision (a) to determine the total statewide increase in school performance.

(c) Divide the product computed for the individual school pursuant to subdivision (a) by the total statewide increase in school performance computed pursuant to subdivision (b) to determine the individual school's proportional contribution to the statewide increase in school performance.

(d) Multiply the quotient obtained pursuant to subdivision (c) by the amount appropriated in that fiscal year for purposes of this article to determine the incentive funding earned by an individual school. In no case, shall the amount of incentive funding earned by an individual school exceed the product of the number of pupils who took the test during the fiscal year in which the increase occurred multiplied by four hundred dollars ($400).

The State Board of Education shall provide the Superintendent of Public Instruction with a list of the schools which have earned incentive funding, and the amount of that funding earned by each school. The board shall provide the governing board of each school district with a list of the schools within the district which have earned incentive funding, and the amount of that funding earned by each school.

SEC. 4. Section 54653.5 is added to the Education Code, to read:

54653.5. If the number of pupils who took the test during the fiscal year in which a performance improvement occurred was less than 93 percent of the school's grade 12 enrollment, the school shall not be eligible to receive incentive funding for that fiscal year, and shall not be included in the calculations made pursuant to Section 54653.

SEC. 5. Section 54657.7 is added to the Education Code, to read:

54657.7. An amount not to exceed 0.5 percent of the funds appropriated for the purposes of this article shall be used for the payment of grade 12 testing proctors and the administration of the Education Improvement Incentive Program.

SEC. 6. Section 60602 of the Education Code is amended to read:

60602. As used in this chapter:

(a) "Achievement test" means any standardized test which measures or attempts to measure the level of performance which a pupil has attained in one or more courses of study. It shall include (1) tests in basic skills courses administered annually and (2) tests in content courses administered from time to time as designated by the State Board of Education.

(b) "Physical performance test" means any test which measures or attempts to measure the physical fitness of a pupil.

(c) "Testing program" means the systematic achievement testing of all pupils in grades 3, 6, 8, 10, and 12, and the physical performance

testing of all pupils in any three grades designated by the State Board of Education, required by this chapter in all schools within each school district by means of tests designated by the State Board of Education.

(d) "Basic skills courses" means those subjects which involve, among other skills, memorization and mastery of specific functions, including, but not limited to, reading, spelling, basic mathematics, and effectiveness of written expression.

(e) "Content courses" means those subjects which require the integration of factual matter, logical analysis, the solution by the student of posed problems, the drawing of logical inferences, the use of critical thinking skills, and the communication of ideas. These subjects shall include, but are not limited to, literature, history, geography, advanced mathematics, and science.

SEC. 6.5. Section 60602 of the Education Code is amended to read:

60602. As used in this chapter:

(a) "Achievement test" means any standardized test which measures or attempts to measure the level of performance which a pupil has attained in one or more courses of study. It shall include (1) tests in basic skills courses administered annually and (2) tests in content courses administered from time to time as designated by the State Board of Education.

(b) "Physical fitness test" means any test which addresses body structure and composition, and cardiovascular, musculoskeletal, and neuromuscular functions.

(c) "Testing program" means the systematic achievement testing of all pupils in grades 3, 6, 8, 10, and 12, and the health-related physical fitness testing of all pupils in any three grades designated by the State Board of Education, required by this chapter in all schools within each school district by means of tests designated by the State Board of Education.

(d) "Basic skills courses" means those subjects which involve, among other skills, memorization and mastery of specific functions, including, but not limited to, reading, spelling, basic mathematics, and effectiveness of written expression.

(e) "Content courses" means those subjects which require the integration of factual matter, logical analysis, the solution by the student of posed problems, the drawing of logical inferences, the use of critical thinking, and the communication of ideas. These subjects shall include, but are not limited to, literature, history, advanced mathematics, and science.

SEC. 7. Section 60603.5 of the Education Code is amended to read:

60603.5. (a) The department may increase the pool of test questions used in assessing the achievement of pupils in grade 12 in order to obtain an accurate estimate of school performance for purposes of Article 2.5 (commencing with Section 54650) of Chapter 9 of Part 29.

(b) In developing a testing method pursuant to subdivision (a), the State Board of Education shall ensure that the method used in high schools with less than 50 pupils enrolled in grade 12 will provide sufficient data to reliably determine the composite rating of the performance of those schools pursuant to Section 54651.

(c) The department shall revise and expand its testing instrument for grade 12 and shall make the revised test instrument available for use commencing with the 1985–86 school year in order to measure pupil performance in the skills identified by subdivision (e) of Section 60602 and the subject areas identified by subdivisions (d) and (e) of Section 60602.

The department shall update the test instrument every three years, commencing three years after the first revision has been completed, in order to adequately reflect the course of study required by law.

The Legislative Analyst shall submit a report to the Legislature two years after the revised test has been implemented regarding the initial revision of the test instrument and the effectiveness of the revised instrument in accomplishing the purposes of this section.

SEC. 7.5. Section 6.5 of this bill incorporates amendments to Section 60602 of the Education Code proposed by both this bill and AB 3228. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 60602 of the Education Code, and (3) this bill is enacted after AB 3228, in which case Section 6 of this bill shall not become operative.

SEC. 8. The sum of six hundred thousand dollars ($600,000) is hereby reappropriated from Item 6100-107-001 of the Budget Act of 1984, Chapter 258 of the Statutes of 1984, to the State Department of Education to be made available for the development of a revised California Assessment Program test instrument for grade 12 in the 1984–85 fiscal year. Funds appropriated by this section shall only be expended upon approval by the Director of Finance, based upon a determination as to whether there are other funds available to the State Department of Education for the development of a revised California Assessment Program test instrument for grade 12 in the 1984–85 fiscal year.

CHAPTER 1698

An act to add Section 19596.5 to the Business and Professions Code, relating to horseracing.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 19596.5 is added to the Business and Professions Code, to read:

19596.5. (a) Notwithstanding any other provision of law, the board may authorize an association licensed to conduct a racing meeting in the northern zone to operate a satellite wagering facility at its racetrack inclosure during the time the association is not conducting a racing meeting if all of the following conditions are met:

(1) The association operating the satellite wagering facility has executed an agreement approved by the board with the association conducting a racing meeting in the northern zone that authorizes parimutuel wagering at the satellite wagering facility. The agreement shall provide that the wagers made at the satellite wagering facility will be included in the appropriate conventional or exotic pool at the racetrack where the racing meeting is conducted.

(2) The horsemen's organization which represents the horsemen at the association which conducts the racing meeting on which wagers are accepted consents to the acceptance of wagers at the satellite wagering facility.

(3) The accommodations and equipment used in conducting wagering at the satellite wagering facility and their location have been approved by the board.

(4) The method used by the satellite wagering facility to transmit wagers, odds, results, and other data related to wagering has been approved by the board.

(b) The deductions from wagers at satellite wagering facilities shall be the same as the deductions for wagers at the racetrack where the racing meeting is being conducted. Notwithstanding any other provision of law, 2 percent of the amount handled by the satellite wagering facility shall be retained as a commission. The funds remaining after distribution of the 2 percent commission shall be distributed in the same relative percentages (reduced pro rata for the 2 percent commission) as provided by Article 9.5 (commencing with Section 19610) for the association which conducts the racing meeting, except that commencing January 1, 1988, the funds available for distribution to the association which conducts the racing meeting and for distribution to the horsemen, in the form of purses, shall be accumulated and shall be distributed equally between (1) the association which conducts the racing meeting and (2) the horsemen, in the form of purses, who participate in the racing meeting of the association which conducts the racing meeting.

(c) All revenues paid to the state from satellite wagering facilities located at fairs shall be deposited in a separate account in the fund and shall be available to the Department of Food and Agriculture, when appropriated, for (1) repayment of principal and interest on bonds issued by a joint powers agency for the purpose of constructing improvements only at a fair's racetrack inclosure, and (2) for

allocation, upon approval of the Director of Food and Agriculture, for support purposes of fairs generally.

CHAPTER 1699

An act to amend Section 17250 of, and to add Sections 17250.5 and 24349.5 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 17250 of the Revenue and Taxation Code is amended to read:

17250. (a) The provisions of Section 168 of the Internal Revenue Code shall not be used to determine what is a reasonable allowance for purposes of Section 167 (a) of the Internal Revenue Code, except as provided in Section 17250.5.

(b) No deduction shall be allowed for any of the following:

(1) Amortization of certain railroad rolling stock as provided for by Section 184 of the Internal Revenue Code.

(2) Amortization of railroad grading and tunnel bores as provided for by Section 185 of the Internal Revenue Code.

(c) The deduction for amortization of pollution control facilities shall be determined in accordance with Section 17251, in lieu of Section 169 of the Internal Revenue Code.

(d) The capitalization of expenditures incurred in planting and developing fruit and nut groves shall be determined in accordance with Section 17261, in lieu of Section 278 of the Internal Revenue Code.

(e) For property used in a trade or business, or held for production of income, there shall be allowed as a depreciation deduction a reasonable allowance for the cost of a solar energy system and allowable conservation measures over a 60-month period for taxable years beginning before January 1, 1987.

SEC. 1.5. Section 17250 of the Revenue and Taxation Code is amended to read:

17250. (a) The provisions of Section 168 of the Internal Revenue Code shall not be used to determine what is a reasonable allowance for purposes of Section 167 (a) of the Internal Revenue Code, except as provided in Section 17250.5.

(b) No deduction shall be allowed for any of the following:

(1) Amortization of certain railroad rolling stock as provided for by Section 184 of the Internal Revenue Code.

(2) Amortization of railroad grading and tunnel bores as provided for by Section 185 of the Internal Revenue Code.

(c) The deduction for amortization of pollution control facilities shall be determined in accordance with Section 169 of the Internal Revenue Code, except that the deduction shall be available only with respect to facilities located in this state.

(d) The capitalization of expenditures incurred in planting and developing fruit and nut groves shall be determined in accordance with Section 17261, in lieu of Section 278 of the Internal Revenue Code.

(e) For property used in a trade or business, or held for production of income, there shall be allowed as a depreciation deduction a reasonable allowance for the cost of a solar energy system and allowable conservation measures over a 60-month period for taxable years beginning before January 1, 1987.

SEC. 1.6. Section 17250 of the Revenue and Taxation Code is amended to read:

17250. (a) The provisions of Section 168 of the Internal Revenue Code shall not be used to determine what is a reasonable allowance for purposes of Section 167 (a) of the Internal Revenue Code, except as provided in Section 17250.5.

(b) No deduction shall be allowed for any of the following:

(1) Amortization of certain railroad rolling stock as provided for by Section 184 of the Internal Revenue Code.

(2) Amortization of railroad grading and tunnel bores as provided for by Section 185 of the Internal Revenue Code.

(c) The deduction for amortization of pollution control facilities shall be determined in accordance with Section 17251, in lieu of Section 169 of the Internal Revenue Code.

(d) The capitalization of expenditures incurred in planting and developing fruit and nut groves shall be determined in accordance with Section 17261, in lieu of Section 278 of the Internal Revenue Code.

(e) For property used in a trade or business, or held for production of income, there shall be allowed as a depreciation deduction a reasonable allowance for the cost of a solar energy system and allowable conservation measures over a 60-month period for taxable years beginning before January 1, 1987.

(f) For property used in a trade or business, or held for production of income, there shall be allowed as a depreciation deduction a reasonable allowance for the cost of a solar pumping system described in Section 17052.1 over a 36-month period for taxable years beginning before January 1, 1989.

SEC. 1.7. Section 17250 of the Revenue and Taxation Code is amended to read:

17250. (a) The provisions of Section 168 of the Internal Revenue Code shall not be used to determine what is a reasonable allowance for purposes of Section 167 (a) of the Internal Revenue Code, except as provided in Section 17250.5.

(b) No deduction shall be allowed for any of the following:

(1) Amortization of certain railroad rolling stock as provided for

by Section 184 of the Internal Revenue Code.

(2) Amortization of railroad grading and tunnel bores as provided for by Section 185 of the Internal Revenue Code.

(c) The deduction for amortization of pollution control facilities shall be determined in accordance with Section 169 of the Internal Revenue Code, except that the deduction shall be available only with respect to facilities located in this state.

(d) The capitalization of expenditures incurred in planting and developing fruit and nut groves shall be determined in accordance with Section 17261, in lieu of Section 278 of the Internal Revenue Code.

(e) For property used in a trade or business, or held for production of income, there shall be allowed as a depreciation deduction a reasonable allowance for the cost of a solar energy system and allowable conservation measures over a 60-month period for taxable years beginning before January 1, 1987.

(f) For property used in a trade or business, or held for production of income, there shall be allowed as a depreciation deduction a reasonable allowance for the cost of a solar pumping system described in Section 17052.1 over a 36-month period for taxable years beginning before January 1, 1989.

SEC. 2. Section 17250.5 is added to the Revenue and Taxation Code, to read:

17250.5. (a) The provisions of Section 168 of the Internal Revenue Code may be used to determine what is a reasonable allowance for purposes of Section 167(a) of the Internal Revenue Code with respect to eligible residential rental property.

(b) Eligible residential real property shall be deemed "18-year real property" for purposes of the application of Section 168 of the Internal Revenue Code and the calculation of depreciation for that property shall be governed by Section 168(b) of the Internal Revenue Code.

(c) For purposes of this section, "eligible residential rental property" means real property which meets all of the following requirements:

(1) Is located in this state.

(2) Construction on which is commenced on or after July 1, 1985, and before July 1, 1988.

(3) Complies with the requirements for residential rental property specified in Section 167(j) (2) (B) of the Internal Revenue Code.

(d) In addition, the allowance for low-income housing as defined in Section 168(c) (2) (F) of the Internal Revenue Code, as amended by Public Law 98-369, which is otherwise eligible residential rental property, shall be determined in accordance with Section 168(b) (4) of the Internal Revenue Code, as amended by Public Law 98-369.

For purposes of paragraph (2), construction is deemed to have commenced upon the issuance of the initial building permit or upon the recordation of the construction loan.

SEC. 3. Section 24349.5 is added to the Revenue and Taxation Code, to read:

24349.5. (a) The provisions of Section 168 of the Internal Revenue Code may be used to determine what is a reasonable allowance for purposes of Section 24349 with respect to eligible residential rental property.

(b) Eligible residential rental property shall be deemed "18-year real property" for purposes of the application of Section 168 of the Internal Revenue Code and the calculation of depreciation for that property shall be governed by Section 168(b) of the Internal Revenue Code.

(c) For purposes of this section, "eligible residential rental property" means real property which meets all of the following requirements:

(1) Is located in this state.

(2) Construction on which is commenced on or after July 1, 1985, and before July 1, 1988.

(3) Complies with the requirements for residential rental property specified in Section 167(j) (2) (B) of the Internal Revenue Code.

(d) In addition, the allowance for low-income housing as defined in Section 168(c) (2) (F) of the Internal Revenue Code, which is otherwise eligible residential rental property, shall be determined in accordance with Section 168(b) (4) of the Internal Revenue Code.

For purposes of paragraph (2), construction is deemed to have commenced upon the issuance of the initial building permit or upon the recordation of the construction loan.

SEC. 4. (a) Section 1.5 of this bill incorporates amendments to Section 17250 of the Revenue and Taxation Code proposed by both this bill and AB 2317. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 17250 of the Revenue and Taxation Code, and (3) SB 1484 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2317, in which case Section 17250 of the Revenue and Taxation Code, as amended by AB 2317, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Sections 1, 1.6, and 1.7 of this bill shall not become operative.

(b) Section 1.6 of this bill incorporates amendments to Section 17250 of the Revenue and Taxation Code proposed by both this bill and SB 1484. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 17250 of the Revenue and Taxation Code, and (3) AB 2317 is not enacted or as enacted does not amend that section, and (4), this bill is enacted after SB 1484, in which case Section 17250 of the Revenue and Taxation Code, as amended by SB 1484, shall remain operative only until the operative date of this bill, at which time Section 1.6 of this bill shall become operative, and Sections 1, 1.5, and 1.7 of this bill shall not become operative.

(c) Section 1.7 of this bill incorporates amendments to Section 17250 of the Revenue and Taxation Code proposed by this bill, AB 2317 and SB 1484. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1985, (2) all three bills amend Section 17250 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 2137 and SB 1484, in which case Sections 1, 1.5, and 1.6 of this bill shall not become operative.

SEC. 5. The Legislative Analyst shall prepare a report to be submitted to the Legislature on or before August 1, 1988, on the effect this act had on the construction of rental housing. The report shall include, but is not limited to, all of the following:

(a) The cost effectiveness of the provisions of this act.

(b) Whether resources flowed to desirable program areas.

(c) The amount of reduced state revenues as a result of this act.

(d) Which income groups benefited from the provisions of this act.

(e) How the program affected the overall distribution of the tax burden.

SEC. 6. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1700

An act to add Article 7.5 (commencing with Section 10400) to Chapter 2 of Part 2 of Division 2 of the Public Contract Code, relating to public agency transactions.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Article 7.5 (commencing with Section 10400) is added to Chapter 2 of Part 2 of Division 2 of the Public Contract Code, to read:

Article 7.5. Co-compost Products

10400. The Legislature hereby finds and declares that it is the policy of the state to encourage the use of marketable end products which are produced as a result of superior waste management by counties, cities, and local agencies.

The Legislature further finds and declares that it is in the public interest to provide special consideration for the state purchase of co-compost and compost products because these products substantially reduce the need for solid waste disposal facilities, such as landfills, and will assist the state in providing new solutions to the alarming decrease in available solid waste disposal facilities, such as

landfills.

10401. For purposes of this article, "co-compost product" means an end product which meets all of the following requirements:

(a) Is derived from a blending of materials, of which at least 80 percent, whenever possible, is household refuse and the remainder is sewage sludge or other comparable substitutes, including, but not limited to, nontoxic dairy wastes, livestock and horse manure, or fish wastes.

(b) Is usable.

(c) Is produced by the waste management facilities of counties, cities, or local agencies, or of private contractors providing waste disposal services to counties, cities, or local agencies.

10402. For purposes of this article, "compost product" means an end product which meets all of the following requirements:

(a) Is derived from the controlled biological decomposition of sewage sludge or from a blending of sewage sludge with carbonacious bulking materials including, but not limited to, wood byproducts, plant wastes, or refuse.

(b) Is usable.

(c) Is produced by the waste management facilities of counties, cities, or local agencies, or of private contractors providing waste disposal services to counties, cities, or local agenices.

10403. All state departments and agencies including, but not limited to, the Department of Transportation, the Department of Water Resources, the Department of Forestry and the Department of Parks and Recreation shall give purchase preference to co-compost and compost products when they can be substituted for, and cost no more than, regular fertilizer or soil amendment products, or both, if the co-compost and compost products meet all applicable state standards and regulations, as determined by appropriate testing. The product preference shall include, but not be limited to, the construction of noise attenuation barriers and safety walls, highway planting projects, and recultivation and erosion control programs.

10404. It is the intent of the Legislature, in enacting this article, that the revenues derived from the state purchase of co-compost products will be used by counties, cities, and local agencies to offset the costs of construction, operation, and maintenance of co-compost waste disposal facilities.

CHAPTER 1701

An act to add Chapter 7 (commencing with Section 1917.310) to Title 4 of Part 4 of Division 3 of the Civil Code, relating to shared appreciation loans for seniors.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Chapter 7 (commencing with Section 1917.310) is added to Title 4 of Part 4 of Division 3 of the Civil Code, to read:

CHAPTER 7. SHARED APPRECIATION LOANS FOR SENIORS

Article 1. Definitions

1917.320. For the purposes of this chapter:

(a) "Actual contingent interest" means the lender's appreciation share of the net appreciated amount. In no event, however, shall the rate of appreciation upon which actual contingent interest is calculated at the end of the loan term exceed 2½ times the rate at which projected contingent interest had been calculated.

(b) "Actual life expectancy" shall be calculated based upon actuarial tables for women only, regardless of the sex of the borrower, and acceptable to both the state and the insurance industry.

(c) "Annuity base amount" means the projected loan amount less (1) the initial advance and (2) the projected contingent interest based on the reasonable appreciation rate used in calculating the projected loan amount.

(d) "Borrower" means the recipient or recipients of a shared appreciation loan for seniors who is obligated by execution of a promissory note and who is at least 65 years of age.

(e) "Borrower's life expectancy" means the actual life expectancy of the borrower plus no more than five years. In the case of a loan executed by two borrowers, the actual life expectancy shall be based upon the youngest of the two.

(f) "Lender" means any corporation organized as a public benefit corporation pursuant to the Nonprofit Corporation Law (Part 2 (commencing with Section 5110), Div. 2, Title 1, Corp. C.).

(g) "Lender's appreciation share" means a proportion not to exceed 25 percent of the appreciation of the property securing the loan calculated in accordance with this chapter.

(h) "Shared appreciation loan for seniors" means any loan made pursuant to this chapter upon the security of owner-occupied real property of a type specified in Section 1917.330, and in connection with which the lender has a right to receive a share of the appreciation in the value of the security property. "Shared appreciation loan" includes a deed of trust and any evidence of debt issued in connection with the loan.

(i) "Maturity event" means the earliest of any of the following:

(1) The death of the borrower. In the case of a married couple who are coborrowers, the death of the surviving spouse.

(2) The date of sale.

(3) The date a loan made pursuant to this chapter is refinanced or repaid in full.

(j) "Monthly annuity" means an amount paid in equal monthly installments to the borrower which shall exhaust the annuity base amount during the borrower's life expectancy calculated at the stated interest rate.

(k) "Net advance" means any lump-sum advance of funds by the lender to the borrower made at the time of the loan closing. Net advance shall not exceed 15 percent of the projected loan amount.

(*l*) "Net appreciated value" means the difference between the fair market value of the property securing the loan at the time the loan is made and the fair market value of the property securing the loan at the time of the maturity event, less any credit for approved improvements made during the term of the loan.

(m) "Prevailing rate" means the yield of a 30-year mortgage commitment for delivery within 30 days for a standard conventional fixed rate mortgage of the Federal Home Loan Mortgage Corporation.

(n) "Projected contingent interest" means the lender's appreciation share of the projected appreciation of the property securing the loan from the date of the loan until the end of the borrower's life expectancy, using the same reasonable projection of annual appreciation used in determining the projected loan amount.

(o) "Projected loan amount" means not less than 80 percent of the estimated fair market value of the borrower's home at the end of the borrower's life expectancy, calculated by applying to the fair market value a reasonable projection of appreciation over the borrower's life expectancy based on a reasonable projected annual appreciation rate of the fair market value of the home.

(p) "Sale" means any transfer of title to the property and includes the execution of an installment sale contract giving the purchaser a right to possess the property before transfer of title, refinancing, judicial sale on execution, or other legal process of foreclosure or trustee's sale, but "sale" does not include a transfer specified in Section 2924.6.

(q) "Stated interest rate" means a total interest rate of not more than four-fifths of the prevailing rate.

(r) "Total loan obligation" means the net original loan and the sum total of all monthly annuity payments received by the borrower, with interest calculated annually at the stated interest rate, and actual contingent interest, except that in no event shall the total loan obligation exceed the actual fair market value of the home on the date of the maturity event.

Article 2. Terms and Conditions

1917.330. Lenders may make shared appreciation loans for seniors pursuant to this chapter for the refinancing of real property improved with one- to four-dwelling units, including structures

ancillary to such dwelling units and including attached single-family dwelling units, single-family mobilehome units, residential condominium units, and dwelling units within a planned unit development. Shared appreciation loans shall be made to refinance only owner-occupied dwelling units, but in the case of two- to four-unit dwellings financed under this chapter, only one of the units need be owner-occupied. A dwelling unit shall be conclusively deemed to be owner-occupied for purposes of this chapter if a borrower certifies in writing to the lender at the time the loan is made that he or she will occupy the property.

1917.331. (a) A shared appreciation loan for seniors shall include all of the following:

(1) The term of the loan shall be for an open-ended term, terminating only upon the occurrence of a maturity event.

(2) An initial advance, if desired by the borrower.

(3) Monthly annuity payments which shall continue until the occurrence of a maturity event.

(4) Interest on (1) and (2), calculated annually at the stated interest rate.

(5) Actual contingent interest.

(c) The loan shall be secured by a deed of trust on the real property financed.

(b) The aggregate amount of any fee charged to the borrower by the lender for processing an application, preparing any necessary documents, obtaining a credit report, or any other costs incurred by the lender in connection with originating a shared appreciation loan for seniors shall not exceed five hundred dollars ($500)". No prepaid interest shall be charged to the borrower.

1917.332. Any provision in any loan made pursuant to this chapter for the discontinuation or termination of a monthly annuity other than upon the occurrence of a maturity event is void and unenforceable.

1917.333. (a) The borrower shall have the right to prepay, at any time, in full or in part, the total loan obligation.

1917.334. Except as provided in this article, the terms and conditions of the shared appreciation loan for seniors shall be subject to all laws applicable to loans in effect on the date the loan is made.

Article 3. Determination of Fair Market Value

1917.410. The borrower, at any time for the purpose of facilitating a sale of the property or prepaying or refinancing the loan, may request the lender to stipulate the minimum amount which the lender considers to be the fair market value of the property for the purposes of this chapter. The lender shall advise the borrower within 10 working days of the receipt of such request of the lender's estimate of the minimum fair market value. The estimate shall remain effective for purposes of this section for 90 days. For the purposes of this section and Section 1917.411, a sale of the property

shall be deemed to have occurred within the 90-day period if there is a valid contract entered by an offer and acceptance within the 90-day period for the sale of the property. The lender's stipulation shall remain effective for an additional 60 days following execution of the sale contract to permit completion of the sale and close of escrow.

The lender shall not be liable to the borrower or any other party on account of damages alleged as a result of providing the stipulation or estimate required by this section if such stipulation or estimate is made in good faith. Evidence of lack of good faith shall include, but not be limited to, a showing that the lender has willfully or repeatedly overrepresented the fair market value of other properties in similar situations, applying equitable principles to those determinations. The lender shall be conclusively presumed to have acted in good faith and no action may be brought or maintained against a lender which arises out of the provision by the lender of such stipulation or estimate, if the lender relied upon an appraisal of an independent appraiser approved by the Federal National Mortgage Association.

1917.411. (a) In the case of a sale for cash within 90 days after the lender stipulates, under the provisions of Section 1917.410, a minimum amount which the lender considers to be the fair market value of the property, the fair market value shall be the gross sale price, unless the gross sale price is below the minimum amount stipulated by the lender and the lender contests in writing the reasonableness of the gross sale price in relation to the fair market value within 10 working days of the lender's receipt of notice of the gross sale price from the borrower, in which case fair market value shall be the greater of gross sale price or the amount determined under Section 1917.412.

(b) In the case of a sale for cash where the borrower has not requested the lender under the provisions of Section 1917.410 to stipulate to the minimum amount which the lender considers to be the fair market value of the property or where the stipulated minimum amount was provided by the lender more than 90 days prior to the date of sale, fair market value shall be the gross sale price, unless the lender contests in writing the reasonableness of the gross sale price in relation to the fair market value within 10 working days of the lender's receipt of notice of the gross sale price from borrower, in which case fair market value shall be the greater of the gross sale price or the amount determined under Section 1917.412.

(c) In the case of a sale which includes consideration to the seller other than cash, fair market value shall be as determined under Section 1917.412.

(d) If the shared appreciation loan is prepaid in full, or upon the occurrence of a maturity event, fair market value shall be as determined under Section 1917.412.

1917.412. When Section 1917.411 requires the application of this section, the fair market value shall be determined by averaging two

appraisals of the property performed as described in this section. If possible, the appraisals shall be based on the sale prices of comparable properties in the market area sold within the preceding three-month period. The appraisals shall be made upon request of the lender by two independent residential appraisers, one to be selected by the lender and one by the borrower. Each appraiser shall be approved by the Federal National Mortgage Association. The cost of the appraiser selected by the lender shall be borne by the lender, and the cost of the appraiser selected by the borrower shall be borne by the borrower, unless the average of the two appraisals equals or is less than the gross sale price of the property, in which case the lender shall also pay the fee of the borrower's appraiser up to two hundred dollars ($200). If either of the appraisers determines that the gross sale price does not reasonably reflect the fair market value of the property, or, in the case of a sale for which appraisal is required by this section, then the fair market value of the property shall be determined as the average of the two appraisals. If the borrower fails to select a qualified appraiser within 15 days after the lender has notified the borrower in writing of the lender's request for an appraisal of the property, the reasons therefor, and the borrower's option to select an independent appraiser within 15 days after the lender's request is submitted to the borrower, the lender may designate the second appraiser, provided the lender's request informs the borrower of this time limitation, and that the lender will select an appraiser on behalf of the borrower in the event the borrower fails to designate an appraiser, with consequent cost to the borrower. If pursuant to this section the lender designates the second appraiser, the cost of both appraisals shall be borne equally by the borrower and lender. If in any case the property has been damaged (other than normal wear and tear) and the damage has not been fully repaired, the determination of fair market value shall be based on the condition of the property not including the damage.

Nothing in this section shall preclude the borrower and lender from establishing the fair market value of the property by mutual agreement in lieu of appraisals pursuant to this section.

Article 4. Improvements

1917.510. The borrower may have the value of capital improvements added to the fair market value of the borrower's property, for purposes of determining the total loan obligation, but only if the procedures set forth in this article are followed.

(a) Within 60 days following the completion of capital improvements during any 12-month period with a cost in excess of one thousand dollars ($1,000), the borrower shall send by first-class mail a notice of the completion of the improvements to the lender and shall submit proof of cost and an estimate of the increase in value of the property by reason of the improvements.

(b) If, within 30 days of receipt of the notice, the lender questions

the claimed increase in value of the property by reason of the improvements, the lender and the borrower may, by mutual agreement, establish the value of the capital improvements or the lender may require appraisal of the property. An appraisal shall be made to determine the increase in value of the property, if any, by reason of the improvements, by two appraisers selected in the same manner specified in Section 1917.412. If appraisals are performed, the increase in value resulting from the improvements for the purposes of this section, shall be one-half of the sum of the two appraisals. The cost of the appraiser selected by the borrower shall be borne by the borrower, and the cost of the appraiser selected by the lender shall be borne by the lender.

(c) A credit for the value of capital improvements shall be provided if the increase in value of the property resulting therefrom is determined pursuant to subdivision (b) to exceed one thousand dollars ($1,000).

(d) If 50 percent or more of the value of the labor or other work on the improvements was performed by the borrower, then the actual cost of the improvements need not exceed one thousand dollars ($1,000) for purposes of making application under subdivision (a).

1917.511. Nothing in this article shall preclude a shared appreciation loan for seniors from providing the borrower with a greater credit for improvements than specified in this article, provided the relevant disclosures required by Article 7 (commencing with Section 1917.710) are appropriately modified to accurately disclose the terms of the credit.

Article 5. General Provisions

1917.610. The relationship of the borrower and the lender of a shared appreciation loan for seniors is that of debtor and creditor and shall not be, or be construed to be, a joint venture, an equity venture, a partnership, or other relationship.

1917.611. Any waiver of any right of a borrower under the provisions of this chapter shall be void and unenforceable.

1917.612. This chapter facilitates one method of making shared appreciation loans to senior citizens in this state. The terms and conditions of any shared appreciation loan for seniors made pursuant to this chapter shall be consistent with this chapter. This chapter does not, however, apply to or limit shared appreciation financing of real property of a type made pursuant to other provisions of law, or which is not otherwise unlawful. Nothing in this chapter shall be construed in any way to affect shared appreciation financing of residential property of senior citizens not meeting the criteria specified in this chapter.

1917.613. A shared appreciation loan for seniors shall not be subject to any provision of this code or the Financial Code which limits the interest rate or change of interest rate of variable interest

rate or renegotiable interest instruments, or which requires particular language or provisions in security instruments securing variable or renegotiable rate obligations or in evidences of those debts.

This section is declaratory of existing law.

1917.614. The lien of a deed of trust securing a shared appreciation loan for seniors shall include and secure the total loan obligation of the shared appreciation loan for seniors.

1917.615. The lien of a shared appreciation loan for seniors, including the total loan obligation, shall attach from the time of the recordation of the deed of trust securing the loan, and the lien, including the lien of the total loan obligation accrued or to be accrued, shall have priority over any other lien or encumbrance affecting the property secured by the shared appreciation instrument and recorded after the time of recordation of the shared appreciation instrument. However, nothing in this section or Section 1917.614 shall preclude a junior lien or encumbrance subordinate to the total loan obligation of the shared appreciation loan for seniors. In no case may a junior lien achieve priority over the lien securing the total loan obligation of the shared appreciation loan, provided that nothing in this section shall be construed to supersede Section 3134.

1917.616. A shared appreciation loan for seniors which bears a fixed interest rate complying with the usury provisions of Article XV of the California Constitution shall not be deemed to become usurious by reason of the payment of actual contingent interest pursuant to this chapter; provided, however, that in no event may the amount of actual contingent interest received by the lender, plus the stated interest received by the lender, result in an annual percentage rate in excess of 1.5 times the applicable usury rate calculated pursuant to Article XV of the California Constitution, when all of such interest is applied over the actual term of the loan.

1917.617. The qualification requirements of Sections 25110, 25120, and 25130 of the Corporations Code do not apply to a shared appreciation loan for seniors to the extent the exemption afforded by subdivision (p) of Section 25100 of that code is applicable.

1917.618. Any loan made pursuant to this chapter shall be subject to Section 580b of the Code of Civil Procedure.

1917.619. Pursuant to the authority contained in Section 1 of Article XV of the California Constitution, the restrictions upon rates of interest contained in Section 1 of Article XV of the California Constitution shall not apply to any obligation of any loan made by any lender pursuant to this chapter.

This section creates and authorizes lenders under this chapter as an exempt class of persons pursuant to Section 1 of Article XV of the Constitution.

Article 6. Notices and Disclosures

1917.710. (a) The disclosures made pursuant to this chapter, as required, shall be the only disclosures required to be made pursuant to state law for shared appreciation loans for seniors, notwithstanding any contrary provision applicable to loans not made under this chapter, except those, if any, that may be required by reason of the application of Division 1 (commencing with Section 25000) of the Corporations Code, or Chapter 1 (commencing with Section 11000) of Part 2 of Division 4 of the Business and Professions Code. However, a lender shall not be precluded from supplementing the disclosures required by this chapter with additional disclosures that are not inconsistent with the disclosures required by this chapter.

(b) Whenever specific language is prescribed by this chapter, substantially the same language shall be utilized if possible, but reasonably equivalent language may be used to the extent necessary or appropriate to achieve a clearer or more accurate disclosure.

1917.711. (a) Each lender offering shared appreciation loans for seniors shall furnish to a prospective borrower, on the earlier of the dates on which the lender first provides written information concerning shared appreciation loans for seniors by the lender or provides a loan application form to the prospective borrower, a written disclosure as provided in this section, in type of not less than ten point.

(b) The disclosure shall be entitled "INFORMATION ABOUT THE (Name of Lender) SHARED APPRECIATION LOAN FOR SENIORS," and shall describe the operation and effect of the shared appreciation loan for seniors, including a brief summary of its terms and conditions, together with a statement consisting of substantially the following language, to the extent applicable to such loan:

INFORMATION ABOUT THE SHARED APPRECIATION LOANS FOR SENIORS

Your lender is pleased to offer you the opportunity to borrow against the equity in your home through a Shared Appreciation Loan for Seniors.

Because the Shared Appreciation Loan for Seniors differs from the usual mortgage loan, the law requires that you have a detailed explanation of the special features of the loan before you apply. Before you sign your particular Shared Appreciation Loan for Seniors documents, you will receive more information about your particular Shared Appreciation Loan for Seniors, which you should read and understand before you sign the loan documents.

Receipt of shared appreciation loan proceeds could be considered income, thereby reducing payments received under government benefit programs, such as Supplemental Security Income (SSI). If this income is accumulated, the payments will be considered a resource, and could terminate your eligibility for SSI or Medi-Cal.

See your legal adviser for more information.

I
GENERAL TERMS

A Shared Appreciation Loan for Seniors will provide you with funds to pay off any existing indebtedness on your home and to pay the closing costs for the loan, and will then advance funds to you each month (monthly annuity) (1) for so long as you or your spouse who is a coborrower live; or (2) until you sell the house; or (3) until you decide to refinance the property and pay off your Shared Appreciation Loan for Seniors. Any of these three events are considered "maturity events," and will constitute the end of the term of the loan. The maturity events are described more fully in the promissory note. Your monthly annuity is calculated according to the method described in Section II, below.

Each advance of funds you receive, including both initial advances (net original loan) and each monthly annuity, will be considered outstanding principal on your loan and will bear a stated interest rate which will be not more than 80 percent of the prevailing rate of interest in the locality in which you live. No payments on your total loan obligation need be made by you until the occurrence of one of the three maturity events described above.

In exchange for a stated interest rate which is below the prevailing rate, you will be obligated to pay us additional interest later, in the form of a share of the appreciation of your home between the time you execute the promissory note and the occurrence of a maturity event. This additional interest is called "actual contingent interest" and is described more fully below at Section III.

Balloon Payment of Principal. If you do not sell the property before the occurrence of a maturity event, you or your successors will need to refinance or pay this loan at that time. The term of this loan is until occurrence of a maturity event. We will not refinance either the unpaid balance of the loan or the contingent interest at that time; you or your successors alone will be responsible for obtaining refinancing. If you refinance this loan, your monthly payments may increase substantially if the property has appreciated significantly or if the interest rate on the refinancing loan is much higher than today's prevailing rates. In general, the more your property appreciates, the larger will be the amount of the actual contingent interest that you will have an obligation to pay or refinance.

Tax and Estate Consequences. USE OF THE SHARED APPRECIATION LOAN FOR SENIORS WILL HAVE INCOME TAX OR ESTATE PLANNING CONSEQUENCES WHICH WILL DEPEND UPON YOUR OWN FINANCIAL AND TAX SITUATION. FOR FURTHER INFORMATION, YOU ARE URGED TO CONSULT YOUR OWN ACCOUNTANT, ATTORNEY, OR OTHER FINANCIAL ADVISER.

THE QUESTIONS YOU SHOULD DISCUSS INCLUDE THE

TAX DEDUCTIBILITY OF THE CONTINGENT INTEREST PAYMENT, YOUR RIGHT TO UTILIZE THAT DEDUCTION IN YEARS OTHER THAN THE YEAR IT IS PAID, AND THE EFFECT OF THE LOSS OF TAX BENEFITS BEFORE THAT TIME. BECAUSE YOU WILL BE BORROWING A SIGNIFICANT AMOUNT OF THE EQUITY IN YOUR HOME, WHEN A MATURITY EVENT OCCURS AND YOUR LOAN IS REPAID, LITTLE OR NO EQUITY MAY REMAIN FOR YOU OR YOUR HEIRS.

Determining Fair Market Value. If you sell your property, the gross sale price will be the fair market value of the property, unless appraisals are requested by us and the appraisals average more than the gross sale price. However, at your request, we also will tell you what we consider to be the fair market value of the property. If you sell for cash for a gross sale price that equals or exceeds that amount, the gross sale price will control and appraisals will not be needed.

Fair market value is determined by appraisals in the event of sales involving a consideration other than cash, prepayment of the loan in full, or any other maturity event.

When appraisals are required, fair market value is determined by averaging two independent appraisals of the property. You may select one of the two appraisers from a list approved by the Federal National Mortgage Association. If appraisals are requested by us, we will provide you with full information on how to select an appraiser.

In lieu of appraisals, we may establish fair market value at an agreed amount if an agreement can be reached between you and us.

Determining Value of Capital Improvements. Capital improvements with a value exceeding $1,000 (but no maintenance or repair costs) may be added to the value of the property for the purpose of determining the net appreciated value, but only if the procedures set forth in the shared appreciation loan documents are followed. It is important to note that capital improvements completed and claimed in any 12-month period must add more than $1,000 in value to the property and must generally also cost more than $1,000. However, if you have performed at least one-half the value of the labor or other work involved, then the cost of the improvements will not be considered. The appraised value of the improvements will be the increase in the value of the property resulting from the improvements. You will receive no credit for minor or major repairs or for improvements that are not appraised at more than $1,000, but the lender will acquire a share of any resulting appreciation in the value of the property.

II
CALCULATION OF MONTHLY ANNUITY

Your Shared Appreciation Loan for Seniors consists of two components: first, an initial advance to cover the cost of paying off any existing liens which you wish to payoff, and to cover closing costs;

and second, a monthly annuity.

Your Shared Appreciation Loan for Seniors is designed to provide a monthly stream of funds for the remainder of the lives of the borrowers, with no payments on the loan due at any time during the lives of the borrowers unless the property is sold or the loan is refinanced or repaid in full. In determining the amount that it is able to lend, the lender estimates what at least 80 percent of the value of the borrower's home is likely to be at the end of the borrower's life expectancy, based on a reasonable projected appreciation rate per year. Borrowers' estimated life spans are predicted on the basis of "actuarial tables" prepared by the government and the insurance industry; and are based only upon estimated female life span, plus up to five years, to avoid any discriminatory effect between the sexes in determining loan amounts and for conservative lending practices. Once the maximum amount which may be loaned has been determined, the amount necessary to pay off existing liens and for closing costs, plus interest at the stated interest rate on that amount for the borrower's life expectancy, is subtracted. The "projected contingent interest" that is predicted to have been earned at the end of the estimated life span is also subtracted. A monthly annuity is then calculated on the remaining amount, based on the stated interest and the borrower's life expectancy.

This complex calculation is illustrated by the following example:

Mr. and Mrs. Smith, who are 73 and 71 years of age, respectively, live in a home with a current value of $150,000, and apply for a Shared Appreciation Loan for Seniors. According to acceptable actuarial tables, Mrs. Smith, the younger of the two, has a remaining actuarial life span of 18 years. At the end of the 18 years, at a 4 percent per year projected appreciation rate, the house would be worth $300,000, 80 percent of which equals $240,000. The house currently has a $15,000 first mortgage, and closing costs will be approximately $2,000, and the Smiths' wish to receive an initial advance to pay off the mortgage and to cover closing costs.

At the time the Smiths apply, the average of the 30-year fixed interest rate for home mortgages of the Federal Home Loan Mortgage Corporation is 13 percent, which is the "prevailing rate." The "stated interest rate" on the Smiths' loan will be 75 percent of the "prevailing rate," or 9¾ percent. (The lender could have charged up to 80 percent of the prevailing rate.)

The Smiths' payments will be calculated so that at the end of the projected loan term of 18 years, the total of all payments owed to the lender will be two hundred forty thousand dollars ($240,000), 80 percent of the estimated value of the Smiths' home after 18 years.

Two items must be subtracted from the two hundred forty thousand dollar ($240,000) future value before the Smiths' payment can be calculated:

(a) Since the Smiths' are requesting an advance of seventeen thousand dollars ($17,000) to pay off their existing mortgage and for closing costs, seventeen thousand dollars ($17,000), plus interest on

seventeen thousand dollars ($17,000) at 9¾ percent for 18 years, for a total of ninety-six thousand fifty-seven dollars ($96,057), must be subtracted from the two hundred forty thousand dollars ($240,000) available for lending. This leaves one hundred forty-three thousand nine hundred forty-three dollars ($143,943).

(b) The lender's share of appreciation of the value of the home is also subtracted before calculating the monthly payment. Since the home is projected to increase in value by one hundred fifty thousand dollars ($150,000), the lender's share, 25 percent, equals thirty-seven thousand five hundred dollars ($37,500). When subtracted from one hundred forty-three thousand nine hundred forty-three dollars ($143,943), this leaves one hundred six thousand four hundred forty-three dollars ($106,443) for monthly payments.

The monthly payment is calculated on the basis of one hundred six thousand four hundred forty-three dollars ($106,443), over an 18-year term with interest at 9¾ percent. This equals one hundred eighty-four dollars ($184) per month. The Smiths' will receive one hundred eighty-four dollars ($184) per month until a maturity event occurs.

At the time of occurrence of a maturity event, the Smiths, or their successors, if they are both deceased, will owe the $17,000 advanced initially, plus the sum of all the monthly payments of $184 received by them until the occurrence of the maturity event, plus interest at 9¾ percent on all of the above from the time the funds were advanced until occurrence of the maturity event, plus actual contingent interest calculated as described in Section III below.

Because interest accumulates rapidly, when a large initial advance is received, or the projected loan term is relatively long, the monthly payment is significantly lower. For instance, if the Smiths' were 80 years old, and received no lump-sum advance, their monthly payment would be seven hundred forty-nine dollars ($749) per month.

The longer the loan has been in effect, of course, the greater the amount that will be owed, as monthly payments and interest accumulate, and as the home appreciates in value. Unless the borrowers choose to sell the home or refinance the loan, monthly payments will continue until both are deceased, no matter how long they live. Thus, the total loan obligation is not limited to the projected life span of the borrowers, nor to any set dollar amount, regardless of the projected maximum. Regardless of how much principal has been advanced by Shared Appreciation Loans for Seniors, and regardless of how much stated interest and actual contingent interest have accumulated or been earned, payments will continue. If the borrower lives substantially longer than the actuarial prediction, it is possible that the total of principal and acquired stated interest plus actual contingent interest, may exceed the value of the home. IN NO EVENT, HOWEVER, WILL A BORROWER OR A BORROWER'S ESTATE BE LIABLE ON THE SHARED APPRECIATION LOAN FOR SENIORS IN AN

AMOUNT GREATER THAN THE VALUE OF THE HOME.

III
ACTUAL CONTINGENT INTEREST

This Shared Appreciation Loan for Seniors provides that you, as borrower, must pay to the lender, as actual contingent interest, a share of up to 25 percent of the net appreciated value of the real property which secures the loan. This actual contingent interest is due and payable whenever a maturity event occurs. The dollar amount of actual contingent interest, if any, which you will be required to pay cannot be determined at this time. If the property does not appreciate, you will owe us nothing as actual contingent interest, and will only have to repay principal and stated interest. Actual contingent interest will not become due if title to the property is transferred on your death to a spouse who is a coborrower, or where a transfer results from a decree of dissolution of a marriage and a spouse who is a coborrower becomes the sole owner.

Your obligation to pay actual contingent interest and stated interest will reduce the amount of the appreciation, if any, that you will realize on the property over and above its value today. Appreciation will not produce a real gain in your equity in the property unless the appreciation rate exceeds the general inflation rate, but you will be required to pay a portion of the appreciation as actual contingent interest without regard to whether the appreciation has resulted in a real gain.

When your home is sold or refinanced, you normally will receive enough cash to pay the total loan obligation. However, if you sell and provide financing to the buyer, you may possibly not receive enough cash to pay the actual contingent interest, and, in that event, it will be necessary for you to provide cash from other funds. In no event, however, will your total loan obligation exceed the value of your home at the time of occurrence of a maturity event, unless you have willfully caused damage to the property.

Calculating the actual contingent interest. Actual contingent interest will be calculated as follows:

	FAIR MARKET VALUE OF THE PROPERTY ON DATE OF MATURITY EVENT (Sale Price or Appraised Value)
– (less)	CURRENT VALUE OF THE PROPERTY
– (less)	VALUE OF CAPITAL IMPROVEMENTS MADE BY YOU (Must exceed $1,000 in cost.)
× (times)	LENDER'S APPRECIATION SHARE (up to 25%)

= (equals) ACTUAL CONTINGENT INTEREST

Below are answers to two frequently asked questions about the Shared Appreciation Loans for Seniors program. If you have any further questions, feel free to call the lender at _____, or write to the lender at _____.

Question. What if I marry, or my spouse is not a coborrower?

Answer. Your Shared Appreciation Loan for Seniors will be due upon the death of the last surviving coborrower. Your lender will be happy to include a new or present spouse as a coborrower, provided the new spouse is over age ____ at the time he or she becomes a coborrower. Because the monthly payment annuity is based upon the projected life span of the youngest coborrower, the annuity will be readjusted if a new, younger coborrower is added. The annuity will be adjusted to reflect the annuity that would have existed had the new coborrower been a coborrower from the beginning of the loan period. Since the monthly annuity is based on a fixed "lendable amount" derived from projected appreciation of the home (see Section II, above), a longer projected loan period, because of the younger age of the new coborrower, will result in a decrease in the size of the monthly annuity.

Question. Can I obtain an additional advance for home improvements?

Answer. Yes, provided your lender approves of the improvement. Your lender will act reasonably in reviewing your request. At the time the advance is made, your lender will calculate the amount of interest at the stated interest rate that will accrue through the projected life of the loan, as it was determined at the time the loan was made. This amount will be deducted from the original lendable amount, and a new annuity calculated, based upon the calculations described in Section II. The effect is the same as if the advance had been made at the outset of the loan, except, of course, you will not be responsible for any interest until the funds are actually advanced. Your annuity will, however, be smaller.

1917.712. (a) Each lender making a shared appreciation loan for seniors shall also furnish to the prospective borrower, prior to the consummation of the loan, the disclosures required by Subpart C of Federal Reserve Board Regulation Z (12 C.F.R. Part 226), including 12 C.F.R. Section 226.18(f), to the extent applicable to the transaction.

(b) The disclosure made pursuant to subdivision (a) and Regulation Z shall be based on the fixed interest rate of the shared appreciation loan for seniors, and shall include a description of the shared appreciation feature, including (1) the conditions for its imposition, the time at which it would be collected, and the limitations on the lender's share, as required by the Federal Reserve Board in the information published by the board in 46 Federal Register 20877-78 (April 7, 1981), and (2) the lender's share of the

appreciated value and the prevailing interest rate as defined in Section 1917.320.

(c) The disclosure made pursuant to subdivision (a) and Regulation Z shall be accompanied by (1) several transaction-specific examples of the operation and effect of the shared appreciation loan and (2) the following charts comparing the shared appreciation loan and a conventional loan made at the prevailing interest rate, and illustrating the possible increase in the monthly payments, and the possible annual percentage rate of finance charge, on the assumptions therein stated:

Chart 1

CONVENTIONAL MORTGAGE AT ___%
If the same loan balance were financed under a conventional, 30-year, fixed-rate, level-payment mortgage, your monthly payments would be:
Years 1–30
$_____/mo.

Chart 2

IF YOU REFINANCE THIS TRANSACTION AT __%	
If your property appreciates at 10% per year, and if your total loan obligation (including actual contingent interest due) at the end of ___ years is refinanced at __% (the prevailing market interest rate now), your monthly payments will be:	
Years 1–__	Refinancing loan
$_____/mo.	$_____/mo.*

* Refinancing loan, assuming a conventional 30-year, fixed-rate, level-payment mortgage. Other mortgage instruments, e.g., graduated-payment or shared-appreciation, if available, may result in lower payments.

Chart 3

APR IF PROPERTY APPRECIATES AT 10%
If your property appreciates at 10% per year, the total finance charge on your shared appreciation loan for seniors (including actual contingent interest) will equal $____, and the annual percentage rate of the total finance charge (including actual contingent interest) will equal ____%.

(d) The disclosures required by subdivision (c) shall be separate from the disclosures required by Regulation Z, and may be presented in the document containing the disclosures required by Regulation Z or in one or more separate documents.

(e) Except to the extent that this section requires disclosure of additional information not required by Regulation Z, compliance with the applicable credit disclosure requirements of Regulation Z shall constitute compliance with the requirements of this section.

(f) The disclosure prescribed in Section 1917.711 shall be physically attached to the disclosures required by this section and Regulation Z at the time the Regulation Z disclosures are furnished to the borrower.

(g) In the event federal law is amended so that this section is inconsistent therewith, the federal law shall prevail as to the disclosures required by this section.

1917.713. Each lender making a shared appreciation loan for seniors shall additionally furnish to the prospective borrower, prior to consummation of the loan, a statement containing the following information:

IMPORTANT INFORMATION ABOUT YOUR SHARED APPRECIATION LOAN FOR SENIORS

You are being offered a shared appreciation loan. Before you decide to accept this loan, read this statement, which is designed to provide important information you should consider.

1. Prevailing interest rate: ____%.
2. Stated interest rate on this loan: ____%.
3. Projected contingent interest: ____%.
4. Initial amount of this loan: $____.
5. Amount of the monthly annuity payments you will receive: $____.
6. Projected term of this loan: ____ years.
7. Projected total loan obligation you will have to pay, assuming the loan continues to the end of the "borrower's" life expectancy: $____.

1917.714. Each deed of trust and evidence of debt executed in connection with a shared appreciation loan for seniors shall contain

a statement, printed or written in a size equal to at least 12-point bold type, consisting of substantially the following language: "THIS IS A [DURATION] SHARED APPRECIATION LOAN FOR SENIORS. THE LENDER'S INTEREST INCLUDES [PERCENT] OF THE NET APPRECIATED VALUE OF THE PROPERTY. A BALLOON PAYMENT OF PRINCIPAL WILL BE REQUIRED. FOR FURTHER INFORMATION, READ THE FLYER ENTITLED 'INFORMATION ABOUT THE [NAME OF LENDER] SHARED APPRECIATION LOAN FOR SENIORS.'" The notice required by this section shall be completed to state the terms of the shared appreciation loan and the lender's share of the net appreciated value.

CHAPTER 1702

An act to add Title 5.5 (commencing with Section 4750) to Part 5 of Division 4 of the Civil Code, and to amend Sections 15200.1 and 15200.2 of the Welfare and Institutions Code, relating to child support.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Title 5.5 (commencing with Section 4750) is added to Part 5 of Division 4 of the Civil Code, to read:

TITLE 5.5. CHILD SUPPORT DELINQUENCY REPORTING

4750. This act shall be known and may be cited as the Child Support Delinquency Reporting Act of 1984.

4751. The Legislature finds and declares that in order to comply with Section 466(a)(7) of the Social Security Act, the State Department of Social Services shall implement procedures which provide that information regarding an amount of past due child support owed by an absent parent residing in this state shall be made available to any consumer reporting agency (as defined in Section 603(f)) of the Fair Credit Reporting Act (15 U.S.C. Sec. 1681 a(f)) upon the request of that agency; except that (a) if the amount of the past-due support involved in any case is less than one thousand dollars ($1,000), information regarding the amount shall be made available only at the option of the department, (b) any information with respect to an absent parent shall be made available under these procedures only after the parent has been notified of the proposed action and given a reasonable opportunity to contest the accuracy of the information, (and after full compliance with all procedural due

process requirements contained in the laws of this state), and (c) a fee for furnishing the information, in an amount not exceeding the actual cost thereof, may be imposed on the requesting agency by the department.

SEC. 2. Section 15200.1 of the Welfare and Institutions Code is amended to read:

15200.1. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, from which the department shall make payments to each county on any support collections distributed on or after October 1, 1982, regardless of the date of collection, federal incentive funds on the amount received which qualify therefor. In addition, the department shall pay to each county on any support collections distributed on or after October 1, 1982, regardless of the date of collection, a state incentive of 7.5 percent. This amount shall be paid on collections used to reduce or repay aid which is paid pursuant to this chapter, on collections paid to an aided family in the form of income not included in determining eligibility for assistance pursuant to federal law (so-called "disregards") and for aid which is entitled to federal matching funds. In addition, a county may qualify for an additional incentive payment under Section 15200.7. These funds shall be deposited in the county general fund.

Where more than one county has participated in the enforcement or collection, the incentive payment authorized by this section shall be made to the county making the collection.

Where more than one state has participated in the enforcement or collection, the incentive payment, if any, shall be made in accordance with Section 15200.2.

SEC. 3. Section 15200.2 of the Welfare and Institutions Code is amended to read:

15200.2. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, from which the department shall make payments to California counties and other states, on any support collections distributed on or after October 1, 1982, regardless of the date of collection, federal incentive funds on the amount received which qualify therefor. In addition, the department shall pay to each county on any support collections distributed on or after October 1, 1982, regardless of the date of collection, a state incentive of 7.5 percent. This amount shall be paid on collections used to reduce or repay aid which is paid pursuant to this chapter, on collections paid to an aided family in the form of income not included in determining eligibility for assistance pursuant to federal law (so-called "disregards"), and for aid which is entitled to federal matching funds. In addition, a county may qualify for an additional incentive payment under Section 15200.7.

The department shall, by regulation, apportion the incentive payment between the collecting state and the county receiving the support payment.

Where a county makes a collection for another state, the

department shall forward any incentive payment received from that state to the county making the collection.

SEC. 4. Section 15200.1 of the Welfare and Institutions Code is amended to read:

15200.1. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, from which the department shall make payments to each county on any support collections distributed on or after October 1, 1982, regardless of the date of collection, federal incentive funds on the amount received which qualify therefor. In addition, the department shall pay to each county on any support collections distributed on or after October 1, 1982, regardless of the date of collection, a state incentive of 7.5 percent. This amount shall be paid on collections used to reduce or repay aid which is paid pursuant to this chapter, on collections paid to an aided family in the form of income not included in determining eligibility for assistance pursuant to federal law (so-called "disregards"), and for aid which is entitled to federal matching funds. In addition, a county may qualify for an additional incentive payment under Section 15200.7. These funds shall be deposited in the county general fund.

Where more than one county has participated in the enforcement or collection, the incentive payment authorized by this section shall be made to the county making the collection.

Where more than one state has participated in the enforcement or collection, the incentive payment, if any, shall be made in accordance with Section 15200.2.

Any funds paid to a county pursuant to this section, over and above the county's cost of administering a child support enforcement program, shall be used to support the child support enforcement services of the district attorney.

SEC. 5. Section 15200.2 of the Welfare and Institutions Code is amended to read:

15200.2. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, from which the department shall make payments to California counties and other states, on any support collections distributed on or after October 1, 1982, regardless of the date of collection, federal incentive funds on the amount received which qualify therefor. In addition, the department shall pay to each county on any support collections distributed on or after October 1, 1982, regardless of the date of collection, a state incentive of 7.5 percent. This amount shall be paid on collections used to reduce or repay aid which is paid pursuant to this chapter, on collections paid to an aided family in the form of income not included in determining eligibility for assistance pursuant to federal law (so-called "disregards") and for aid which is entitled to federal matching funds. In addition, a county may qualify for an additional incentive payment under Section 15200.7.

The department shall, by regulation, apportion the incentive payment between the collecting state and the county receiving the

support payment.

Where a county makes a collection for another state, the department shall forward any incentive payment received from that state to the county making the collection.

Any funds paid to a county pursuant to this section, over and above the county's cost of administering a child support enforcement program, shall be used to support the child support enforcement services of the district attorney.

SEC. 6. Section 4 of this bill incorporates amendments to Section 15200.1 of the Welfare and Institutions Code proposed by both this bill and AB 2849. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 15200.1 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 2849, in which case Section 2 of this bill shall not become operative.

SEC. 7. Section 5 of this bill incorporates amendments to Section 15200.2 of the Welfare and Institutions Code proposed by both this bill and AB 2849. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 15200.2 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 2849, in which case Section 3 of this bill shall not become operative.

SEC. 8. This act shall not become operative unless the federal legislation referred to in Section 4751 of the Civil Code is enacted and contains provisions for the program established by this act.

CHAPTER 1703

An act to amend Section 11172 of the Penal Code, relating to child abuse reporting.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 11172 of the Penal Code is amended to read:

11172. (a) In addition to any other immunity provided by state or federal law, the following immunity from civil or criminal liability shall apply:

(1) No child care custodian, medical practitioner or nonmedical practitioner, or employee of a child protective agency who reports a known or suspected instance of child abuse shall incur any civil or criminal liability for any report required or authorized by this article.

(2) No other person reporting a known or suspected instance of child abuse shall incur any civil or criminal liability as a result of any report authorized by this article unless it can be proven that a false report was made and that the person knew that the report was false.

(3) No person required to make a report pursuant to this article, nor any person taking photographs at his or her direction, shall incur any civil or criminal liability for taking photographs of a known or suspected victim of child abuse, or for causing photographs to be taken of a known or suspected victim of child abuse, without parental consent, or for disseminating the photographs with the reports required by this article. However, this section shall not be construed to grant immunity from civil or criminal liability with respect to any other use of the photographs.

(4) No child care institution, community care institution licensed to care for children, public or private day camp, residential care facility, public or private school, or employee thereof, who, pursuant to the request of a child protective agency or district attorney, provides the requesting entity with access to the victim or suspected victim of a known or suspected instance of child abuse shall incur any civil or criminal liability for doing so. However, this immunity is not applicable if the providing of access violates the confidentiality provisions of Section 11167.5 or of any other state or federal law. It also does not apply to any person who is a principal or accessory, or is a suspect as a principal or an accessory, as defined in Section 31 or 32, in the commission of the known or suspected instance of child abuse, except to the extent of any immunity granted pursuant to Section 1324 or 1324.1.

(b) Any person who fails to report an instance of child abuse which he or she knows to exist or reasonably should know to exist, as required by this article, is guilty of a misdemeanor and is punishable by confinement in the county jail for a term not to exceed six months, or by a fine of not more than five hundred dollars ($500), or by both.

SEC. 2. Section 11172 of the Penal Code is amended to read:

11172. (a) In addition to any other immunity provided by state or federal law, the following immunity from civil or criminal liability shall apply:

(1) No child care custodian, medical practitioner or nonmedical practitioner, or employee of a child protective agency who reports a known or suspected instance of child abuse shall incur any civil or criminal liability for any report required or authorized by this article.

(2) No other person reporting a known or suspected instance of child abuse shall incur any civil or criminal liability as a result of any report authorized by this article unless it can be proven that a false report was made and that the person knew that the report was false.

(3) No person required to make a report pursuant to this article, nor any person taking photographs at his or her direction, shall incur any civil or criminal liability for taking photographs of a known or suspected victim of child abuse, or for causing photographs to be taken of a known or suspected victim of child abuse, without parental

consent, or for disseminating the photographs with the reports required by this article. However, this section shall not be construed to grant immunity from civil or criminal liability with respect to any other use of the photographs.

(4) No child care institution, community care institution licensed to care for children, public or private day camp, residential care facility, public or private school, or employee thereof, who, pursuant to the request of a child protective agency or district attorney, provides the requesting entity with access to the victim or suspected victim of a known or suspected instance of child abuse shall incur any civil or criminal liability for doing so. However, this immunity is not applicable if the providing of access violates the confidentiality provisions of Section 11167.5 or of any other state or federal law. It also does not apply to any person who is a principal or accessory, or is a suspect as a principal or an accessory, as defined in Section 31 or 32, in the commission of the known or suspected instance of child abuse, except to the extent of any immunity granted pursuant to Section 1324 or 1324.1.

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

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

(c) Any person who fails to report an instance of child abuse which he or she knows to exist or reasonably should know to exist, as required by this article, is guilty of a misdemeanor and is punishable by confinement in the county jail for a term not to exceed six months or by a fine of not more than one thousand dollars ($1,000) or by both.

SEC. 3. Section 2 of this bill incorporates amendments to Section 11172 of the Penal Code proposed by both this bill and AB 2702. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 11172 of the Penal Code, and (3) this bill is enacted after AB 2702, in which case Section 1 of this bill shall not become operative.

CHAPTER 1704

An act to amend Section 3344 of, and to add Section 990 to, the Civil Code, relating to privacy and publicity.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 990 is added to Chapter 4 of Title 2 of Part 3 of Division 2 of the Civil Code, to read:

990. (a) Any person who uses a deceased personality's name, voice, signature, photograph, or likeness, in any manner, on or in products, merchandise, or goods, or for purposes of advertising or selling, or soliciting purchases of, products, merchandise, goods, or services, without prior consent from the person or persons specified in subdivision (c), shall be liable for any damages sustained by the person or persons injured as a result thereof. In addition, in any action brought under this section, the person who violated the section shall be liable to the injured party or parties in an amount equal to the greater of seven hundred fifty dollars ($750) or the actual damages suffered by the injured party or parties, as a result of the unauthorized use, and any profits from the unauthorized use that are attributable to the use and are not taken into account in computing the actual damages. In establishing these profits, the injured party or parties shall be required to present proof only of the gross revenue attributable to the use and the person who violated the section is required to prove his or her deductible expenses. Punitive damages may also be awarded to the injured party or parties. The prevailing party or parties in any action under this section shall also be entitled to attorneys' fees and costs.

(b) The rights recognized under this section are property rights, freely transferable, in whole or in part, by contract or by means of trust or testamentary documents, whether the transfer occurs before the death of the deceased personality, by the deceased personality or his or her transferees, or, after the death of the deceased personality, by the person or persons in whom such rights vest under this section or the transferees of that person or persons.

(c) The consent required by this section shall be exercisable by the person or persons to whom such right of consent (or portion

thereof) has been transferred in accordance with subdivision (b), or if no such transfer has occurred, then by the person or persons to whom such right of consent (or portion thereof) has passed in accordance with subdivision (d).

(d) Subject to subdivisions (b) and (c), after the death of any person, the rights under this section shall belong to the following person or persons and may be exercised, on behalf of and for the benefit of all of those persons, by those persons who, in the aggregate, are entitled to more than a one-half interest in such rights:

(1) The entire interest in those rights belong to the surviving spouse of the deceased personality unless there are any surviving children or grandchildren of the deceased personality, in which case one-half of the entire interest in those rights belong to the surviving spouse.

(2) The entire interest in those rights belong to the surviving children of the deceased personality and to the surviving children of any dead child of the deceased personality unless the deceased personality has a surviving spouse, in which case the ownership of a one-half interest in rights is divided among the surviving children and grandchildren.

(3) If there is no surviving spouse, and no surviving children or grandchildren, then the entire interest in those rights belong to the surviving parent or parents of the deceased personality.

(4) The rights of the deceased personality's children and grandchildren are in all cases divided among them and exercisable on a per stirpes basis according to the number of the deceased personality's children represented; the share of the children of a dead child of a deceased personality can be exercised only by the action of a majority of them. For the purposes of this section, "per stirpes" is defined as it is defined in Section 240 of the Probate Code.

(e) If any deceased personality does not transfer his or her rights under this section by contract, or by means of a trust or testamentary document, and there are no surviving persons as described in subdivision (d), then the rights set forth in subdivision (a) shall terminate.

(f) (1) A successor-in-interest to the rights of a deceased personality under this section or a licensee thereof may not recover damages for a use prohibited by this section that occurs before the successor-in-interest or licensee registers a claim of the rights under paragraph (2).

(2) Any person claiming to be a successor-in-interest to the rights of a deceased personality under this section or a licensee thereof may register that claim with the Secretary of State on a form prescribed by the Secretary of State and upon payment of a fee of ten dollars ($10). The form shall be verified and shall include the name and date of death of the deceased personality, the name and address of the claimant, the basis of the claim, and the rights claimed.

(3) Upon receipt and after filing of any document under this section, the Secretary of State may microfilm or reproduce by other

techniques any of the filings or documents and destroy the original filing or document. The microfilm or other reproduction of any document under the provision of this section shall be admissible in any court of law. The microfilm or other reproduction of any document may be destroyed by the Secretary of State 50 years after the death of the personality named therein.

(4) Claims registered under this subdivision shall be public records.

(g) No action shall be brought under this section by reason of any use of a deceased personality's name, voice, signature, photograph, or likeness occurring after the expiration of 50 years from the death of the deceased personality.

(h) As used in this section, "deceased personality" means any natural person whose name, voice, signature, photograph, or likeness has commercial value at the time of his or her death, whether or not during the lifetime of that natural person the person used his or her name, voice, signature, photograph, or likeness on or in products, merchandise or goods, or for purposes of advertising or selling, or solicitation of purchase of, products, merchandise, goods or service. A "deceased personality" shall include, without limitation, any such natural person who has died within 50 years prior to January 1, 1985.

(i) As used in this section, "photograph" means any photograph or photographic reproduction, still or moving, or any videotape or live television transmission, of any person, such that the deceased personality is readily identifiable. A deceased personality shall be deemed to be readily identifiable from a photograph when one who views the photograph with the naked eye can reasonably determine who the person depicted in the photograph is.

(j) For purposes of this section, a use of a name, voice, signature, photograph, or likeness in connection with any news, public affairs, or sports broadcast or account, or any political campaign, shall not constitute a use for which consent is required under subdivision (a).

(k) The use of a name, voice, signature, photograph, or likeness in a commercial medium shall not constitute a use for which consent is required under subdivision (a) solely because the material containing such use is commercially sponsored or contains paid advertising. Rather it shall be a question of fact whether or not the use of the deceased personality's name, voice, signature, photograph, or likeness was so directly connected with the commercial sponsorship or with the paid advertising as to constitute a use for which consent is required under subdivision (a).

(*l*) Nothing in this section shall apply to the owners or employees of any medium used for advertising, including, but not limited to, newspapers, magazines, radio and television networks and stations, cable television systems, billboards, and transit ads, by whom any advertisement or solicitation is violation of this section is published or disseminated, unless it is established that such owners or employees had knowledge of the unauthorized use of the deceased personality's name, voice, signature, photograph, or likeness as

prohibited by this section.

(m) The remedies provided for in this section are cumulative and shall be in addition to any others provided for by law.

(n) This section shall not apply to the use of a deceased personality's name, voice, signature, photograph, or likeness, in any of the following instances:

(1) A play, book, magazine, newspaper, musical composition, film, radio or television program, other than an advertisement or commercial announcement not exempt under paragraph (4).

(2) Material that is of political or newsworthy value.

(3) Single and original works of fine art.

(4) An advertisement or commercial announcement for a use permitted by paragraph (1), (2), or (3).

SEC. 2. Section 3344 of the Civil Code is amended to read:

3344. (a) Any person who knowingly uses another's name, voice, signature, photograph, or likeness, in any manner, on or in products, merchandise, or goods, or for purposes of advertising or selling, or soliciting purchases of, products, merchandise, goods or services, without such person's prior consent, or, in the case of a minor, the prior consent of his parent or legal guardian, shall be liable for any damages sustained by the person or persons injured as a result thereof. In addition, in any action brought under this section, the person who violated the section shall be liable to the injured party or parties in an amount equal to the greater of seven hundred fifty dollars ($750) or the actual damages suffered by him or her as a result of the unauthorized use, and any profits from the unauthorized use that are attributable to the use and are not taken into account in computing the actual damages. In establishing such profits, the injured party or parties are required to present proof only of the gross revenue attributable to such use, and the person who violated this section is required to prove his or her deductible expenses. Punitive damages may also be awarded to the injured party or parties. The prevailing party in any action under this section shall also be entitled to attorney's fees and costs.

(b) As used in this section, "photograph" means any photograph or photographic reproduction, still or moving, or any videotape or live television transmission, of any person, such that the person is readily identifiable.

(1) A person shall be deemed to be readily identifiable from a photograph when one who views the photograph with the naked eye can reasonably determine that the person depicted in the photograph is the same person who is complaining of its unauthorized use.

(2) If the photograph includes more than one person so identifiable, then the person or persons complaining of the use shall be represented as individuals rather than solely as members of a definable group represented in the photograph. A definable group includes, but is not limited to, the following examples: a crowd at any sporting event, a crowd in any street or public building, the audience

at any theatrical or stage production, a glee club, or a baseball team.

(3) A person or persons shall be considered to be represented as members of a definable group if they are represented in the photograph solely as a result of being present at the time the photograph was taken and have not been singled out as individuals in any manner.

(c) Where a photograph or likeness of an employee of the person using the photograph or likeness appearing in the advertisement or other publication prepared by or in behalf of the user is only incidental, and not essential, to the purpose of the publication in which it appears, there shall arise a rebuttable presumption affecting the burden of producing evidence that the failure to obtain the consent of the employee was not a knowing use of the employee's photograph or likeness.

(d) For purposes of this section, a use of a name, voice, signature, photograph, or likeness in connection with any news, public affairs, or sports broadcast or account, or any political campaign, shall not constitute a use for which consent is required under subdivision (a).

(e) The use of a name, voice, signature, photograph, or likeness in a commercial medium shall not constitute a use for which consent is required under subdivision (a) solely because the material containing such use is commercially sponsored or contains paid advertising. Rather it shall be a question of fact whether or not the use of the person's name, voice, signature, photograph, or likeness was so directly connected with the commercial sponsorship or with the paid advertising as to constitute a use for which consent is required under subdivision (a).

(f) Nothing in this section shall apply to the owners or employees of any medium used for advertising, including, but not limited to, newspapers, magazines, radio and television networks and stations, cable television systems, billboards, and transit ads, by whom any advertisement or solicitation in violation of this section is published or disseminated, unless it is established that such owners or employees had knowledge of the unauthorized use of the person's name, voice, signature, photograph, or likeness as prohibited by this section.

(g) The remedies provided for in this section are cumulative and shall be in addition to any others provided for by law.

CHAPTER 1705

An act to amend Sections 411.30, 581, and 1141.17 of, to add Chapter 1.5 (commencing with Section 583.110) to Title 8 of Part 2 of, and to repeal Sections 581a and 583 of, the Code of Civil Procedure, and to amend Section 3638 of the Revenue and Taxation Code, relating to civil actions.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 411.30 of the Code of Civil Procedure is amended to read:

411.30. (a) In any action for damages arising out of the professional negligence of a person holding a valid physician's and surgeon's certificate issued pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, or of a person holding a valid dentist's license issued pursuant to Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code, or of a person holding a valid podiatrist's certificate issued pursuant to Article 22 (commencing with Section 2460) of Chapter 5 of Division 2 of the Business and Professions Code, or of a person licensed pursuant to the Chiropractic Act, on or before the date of service of the complaint on any defendant, the plaintiff's attorney shall file the certificate specified in subdivision (b).

(b) A certificate shall be executed by the attorney for the plaintiff declaring one of the following:

(1) That the attorney has reviewed the facts of the case, that the attorney has consulted with at least one physician and surgeon, dentist, podiatrist, or chiropractor who is licensed to practice and practices in this state or any other state or teaches at an accredited college or university and who the attorney reasonably believes is knowledgeable in the relevant issues involved in the particular action, and that the attorney has concluded on the basis of such review and consultation that there is reasonable and meritorious cause for the filing of such action.

(2) That the attorney was unable to obtain the consultation required by paragraph (1) because a statute of limitations, including the provisions of Article 2 (commencing with Section 583.210) of Chapter 1.5 of Title 8, would impair the action and that the certificate required by paragraph (1) could not be obtained before the impairment of the action. If a certificate is executed pursuant to this paragraph, the certificate required by paragraph (1) shall be filed within 60 days after service of the complaint.

(3) That the attorney was unable to obtain the consultation required by paragraph (1) because the attorney had made three separate good faith attempts with three separate physicians and surgeons, dentists, podiatrists, or chiropractors to obtain such consultation and none of those contacted would agree to such a consultation.

(c) Where a certificate is required pursuant to this section, only one such certificate shall be filed notwithstanding that multiple defendants have been named in the complaint or may be named at a later time.

(d) Where the attorney intends to rely solely on the doctrine of "res ipsa loquitur", as defined in Section 646 of the Evidence Code, or exclusively on a failure to inform of the consequences of a procedure, or both, this section shall be inapplicable. The attorney shall certify upon filing of the complaint that the attorney is solely relying on the doctrines of "res ipsa loquitur" or failure to inform of the consequences of a medical procedure or both, and for that reason is not filing a certificate required by this section.

(e) If a request by the plaintiff for the defendant's records has been made pursuant to Section 1158 of the Evidence Code, and if the defendant has failed to produce such records within the time limits specified by that section, the time for filing the certificate of merit shall be extended for the period by which the time for furnishing records set forth in Section 1158 of the Evidence Code is exceeded by the defendant to a maximum of 60 days after which the requirement for the certificate is voided.

(f) For purposes of this section, and subject to Evidence Code Section 912, an attorney who submits a certificate as required by paragraph (1) or (2) of subdivision (b) has a privilege to refuse to disclose the identity of the physician or surgeon, dentist, podiatrist, or chiropractor consulted and the contents of such consultation. Such privilege shall also be held by the physician or surgeon, dentist, podiatrist, or chiropractor so consulted, provided when the attorney makes a claim under paragraph (3) of subdivision (b) that he was unable to obtain the required consultation with the physician and surgeon, dentist, podiatrist, or chiropractor, the court may require the attorney to divulge the names of physicians and surgeons, dentists, podiatrists, or chiropractors refusing such consultation.

(g) A violation of the provisions of this section may constitute unprofessional conduct and be grounds for discipline against the attorney.

(h) The failure to file a certificate required by this section shall be grounds for a demurrer pursuant to Section 430.10.

(i) The provisions of this section shall not be applicable to a plaintiff who is not represented by an attorney.

(j) This section shall remain in effect until January 1, 1987, and on that date is repealed unless a later enacted statute deletes or extends that date.

SEC. 2. Section 581 of the Code of Civil Procedure is amended to read:

581. An action may be dismissed in the following cases:

(a) By plaintiff, by written request to the clerk, filed with the papers in the case, or by oral or written request to the judge where there is no clerk, at any time before the actual commencement of trial, upon payment of the costs of the clerk or judge. This subdivision does not apply if affirmative relief has been sought by the cross-complaint of the defendant or if there is a motion pending for an order transferring the action to another court under the provisions of Section 396b. A trial shall be deemed to be actually

commenced at the beginning of the opening statement of the plaintiff or counsel, and if there is no opening statement, then at the time of the administering of the oath or affirmation to the first witness, or the introduction of any evidence.

(b) By either party, upon the written consent of the other. No dismissal mentioned in subdivisions (a) and (b) shall be granted except upon the written consent of the attorney of record of the party or parties applying therefor, or if consent is not obtained upon order of the court after notice to the attorney.

(c) By the court, when either party fails to appear on the trial and the other party appears and asks for the dismissal, or when a demurrer is sustained without leave to amend, or when, after a demurrer to the complaint has been sustained with leave to amend, the plaintiff fails to amend it within the time allowed by the court, or a motion to strike the whole of the complaint is granted without leave to amend, or a motion to strike the whole of a complaint or portion thereof is granted with leave to amend and the plantiff fails to amend within the time allowed by the court, and either party moves for such dismissal.

(d) By the court, with prejudice to the cause, when upon the trial and before the final submission of the case, the plaintiff abandons it.

(e) The provisions of subdivision (a) shall not prohibit a party from dismissing with prejudice, either by written request to the clerk or oral or written request to the judge, as the case may be, any cause of action at any time before decision rendered by the court. Provided, however, that no such dismissal with prejudice shall have the effect of dismissing a cross-complaint filed in the action. Dismissals without prejudice may be had in either of the manners provided for in subdivision (a), after actual commencement of the trial, either by consent of all of the parties to the trial or by order of court on showing of just cause therefor.

(f) By the court without prejudice when no party appears for trial following 30 days notice of time and place for trial.

(g) By the court without prejudice when dismissal is made pursuant to Chapter 1.5 (commencing with Section 583.110).

SEC. 3. Section 581a of the Code of Civil Procedure is repealed.

SEC. 4. Section 583 of the Code of Civil Procedure is repealed.

SEC. 5. Chapter 1.5 (commencing with Section 583.110) is added to Title 8 of Part 2 of the Code of Civil Procedure, to read:

CHAPTER 1.5. DISMISSAL FOR DELAY IN PROSECUTION

Article 1. Definitions and General Provisions

583.110. As used in this chapter, unless the provision or context otherwise requires:

(a) "Action" includes an action commenced by cross-complaint or other pleading that asserts a cause of action or claim for relief.

(b) "Complaint" includes a cross-complaint or other initial

pleading.

(c) "Court" means the court in which the action is pending.

(d) "Defendant" includes a cross-defendant or other person against whom an action is commenced.

(e) "Plaintiff" includes a cross-complainant or other person by whom an action is commenced.

(f) "Service" includes return of summons.

583.120. (a) This chapter applies to a civil action and does not apply to a special proceeding except to the extent incorporated by reference in the special proceeding.

(b) Notwithstanding subdivision (a), the court may, by rule or otherwise under inherent authority of the court, apply this chapter to a special proceeding or part of a special proceeding except to the extent such application would be inconsistent with the character of the special proceeding or the statute governing the special proceeding.

583.130. It is the policy of the state that a plaintiff shall proceed with reasonable diligence in the prosecution of an action but that all parties shall cooperate in bringing the action to trial or other disposition. Except as otherwise provided by statute or by rule of court adopted pursuant to statute, the policy favoring the right of parties to make stipulations in their own interests and the policy favoring trial or other disposition of an action on the merits are generally to be preferred over the policy that requires dismissal for failure to proceed with reasonable diligence in the prosecution of an action in construing the provisions of this chapter.

583.140. Nothing in this chapter abrogates or otherwise affects the principles of waiver and estoppel.

583.150. This chapter does not limit or affect the authority of a court to dismiss an action or impose other sanctions under a rule adopted by the court pursuant to Section 575.1 or by the Judicial Council pursuant to statute, or otherwise under inherent authority of the court.

583.160. This chapter applies to a motion for dismissal made in an action commenced before, on, or after the effective date of this chapter, except that in the case of an action commenced before the effective date of this chapter:

(a) A motion for dismissal made pursuant to notice given before, on, or within one year after the effective date of this chapter is governed by the applicable law in effect immediately before the effective date and for this purpose the law in effect immediately before the effective date continues in effect.

(b) This chapter does not affect an order dismissing an action made before the effective date of this chapter.

Article 2. Mandatory Time for Service of Summons

583.210. (a) The summons and complaint shall be served upon a defendant within three years after the action is commenced against

the defendant. For the purpose of this subdivision an action is commenced at the time the complaint is filed.

(b) Return of summons or other proof of service shall be made within 60 days after the time the summons and complaint must be served upon a defendant.

583.220. The time within which service must be made pursuant to this article does not apply if the defendant enters into a stipulation in writing or does another act that constitutes a general appearance in the action. For the purpose of this section none of the following constitutes a general appearance in the action:

(a) A stipulation pursuant to Section 583.230 extending the time within which service must be made.

(b) A motion to dismiss made pursuant to this chapter, whether joined with a motion to quash service or a motion to set aside a default judgment, or otherwise.

(c) An extension of time to plead after a motion to dismiss made pursuant to this chapter.

583.230. The parties may extend the time within which service must be made pursuant to this article by the following means:

(a) By written stipulation. The stipulation need not be filed but, if it is not filed, the stipulation shall be brought to the attention of the court if relevant to a motion for dismissal.

(b) By oral agreement made in open court, if entered in the minutes of the court or a transcript is made.

583.240. In computing the time within which service must be made pursuant to this article, there shall be excluded the time during which any of the following conditions existed:

(a) The defendant was not amenable to the process of the court.

(b) The prosecution of the action or proceedings in the action was stayed and the stay affected service.

(c) The validity of service was the subject of litigation by the parties.

(d) Service, for any other reason, was impossible, impracticable, or futile due to causes beyond the plaintiff's control. Failure to discover relevant facts or evidence is not a cause beyond the plaintiff's control for the purpose of this subdivision.

583.250. (a) If service is not made in an action within the time prescribed in this article:

(1) The action shall not be further prosecuted and no further proceedings shall be held in the action.

(2) The action shall be dismissed by the court on its own motion or on motion of any person interested in the action, whether named as a party or not, after notice to the parties.

(b) The requirements of this article are mandatory and are not subject to extension, excuse, or exception except as expressly provided by statute.

Article 3. Mandatory Time for Bringing Action to Trial or New Trial

583.310. An action shall be brought to trial within five years after the action is commenced against the defendant.

583.320. (a) If a new trial is granted in the action the action shall again be brought to trial within the following times:

(1) If a trial is commenced but no judgment is entered because of a mistrial or because a jury is unable to reach a decision, within three years after the order of the court declaring the mistrial or the disagreement of the jury is entered.

(2) If after judgment a new trial is granted and no appeal is taken, within three years after the order granting the new trial is entered.

(3) If on appeal an order granting a new trial is affirmed or a judgment is reversed and the action remanded for a new trial, within three years after the remittitur is filed by the clerk of the trial court.

(b) Nothing in this section requires that an action again be brought to trial before expiration of the time prescribed in Section 583.310.

583.330. The parties may extend the time within which an action must be brought to trial pursuant to this article by the following means:

(a) By written stipulation. The stipulation need not be filed but, if it is not filed, the stipulation shall be brought to the attention of the court if relevant to a motion for dismissal.

(b) By oral agreement made in open court, if entered in the minutes of the court or a transcript is made.

583.340. In computing the time within which an action must be brought to trial pursuant to this article, there shall be excluded the time during which any of the following conditions existed:

(a) The jurisdiction of the court to try the action was suspended.

(b) Prosecution or trial of the action was stayed or enjoined.

(c) Bringing the action to trial, for any other reason, was impossible, impracticable, or futile.

583.350. If the time within which an action must be brought to trial pursuant to this article is tolled or otherwise extended pursuant to statute with the result that at the end of the period of tolling or extension less than six months remains within which the action must be brought to trial, the action shall not be dismissed pursuant to this article if the action is brought to trial within six months after the end of the period of tolling or extension.

583.360. (a) An action shall be dismissed by the court on its own motion or on motion of the defendant, after notice to the parties, if the action is not brought to trial within the time prescribed in this article.

(b) The requirements of this article are mandatory and are not subject to extension, excuse, or exception except as expressly provided by statute.

Article 4. Discretionary Dismissal for Delay

583.410. (a) The court may in its discretion dismiss an action for delay in prosecution pursuant to this article on its own motion or on motion of the defendant if to do so appears to the court appropriate under the circumstances of the case.

(b) Dismissal shall be pursuant to the procedure and in accordance with the criteria prescribed by rules adopted by the Judicial Council.

583.420. (a) The court may not dismiss an action pursuant to this article for delay in prosecution except after one of the following conditions has occurred:

(1) Service is not made within two years after the action is commenced against the defendant.

(2) The action is not brought to trial within the following times:

(A) Three years after the action is commenced against the defendant unless otherwise prescribed by rule under subparagraph (B).

(B) Two years after the action is commenced against the defendant if the Judicial Council by rule adopted pursuant to Section 583.410 so prescribes for the court because of the condition of the court calendar or for other reasons affecting the conduct of litigation or the administration of justice.

(3) A new trial is granted and the action is not again brought to trial within the following times:

(A) If a trial is commenced but no judgment is entered because of a mistrial or because a jury is unable to reach a decision, within two years after the order of the court declaring the mistrial or the disagreement of the jury is entered.

(B) If after judgment a new trial is granted and no appeal is taken, within two years after the order granting the new trial is entered.

(C) If on appeal an order granting a new trial is affirmed or a judgment is reversed and the action remanded for a new trial, within two years after the remittitur is filed by the clerk of the trial court.

(b) The times provided in subdivision (a) shall be computed in the manner provided for computation of the comparable times under Articles 2 (commencing with Section 583.210) and 3 (commencing with Section 583.310).

583.430. (a) In a proceeding for dismissal of an action pursuant to this article for delay in prosecution the court in its discretion may require as a condition of granting or denial of dismissal that the parties comply with such terms as appear to the court proper to effectuate substantial justice.

(b) The court may make any order necessary to effectuate the authority provided in this section, including, but not limited to, provisional and conditional orders.

SEC. 6. Section 1141.17 of the Code of Civil Procedure is amended to read:

1141.17. (a) Submission of an action to arbitration pursuant to

this chapter shall not suspend the running of the time periods specified in Chapter 1.5 (commencing with Section 583.110) of Title 8 of Part 2, except as provided in this section.

(b) If an action is or remains submitted to arbitration pursuant to this chapter more than four years and six months after the plaintiff has filed the action, then the time beginning on the date four years and six months after the plaintiff has filed the action and ending on the date on which a request for a de novo trial is filed under Section 1141.20 shall not be included in computing the five-year period specified in Section 583.310.

SEC. 7. Section 3638 of the Revenue and Taxation Code is amended to read:

3638. An action commenced under this chapter shall be dismissed by the court in which it is commenced or to which it is transferred on motion of the defendant after due notice to plaintiff, or by the court upon its own motion, unless the action is brought to trial within one year after the plaintiff has filed the action, except where the parties have stipulated, in writing, that the time may be extended. Chapter 1.5 (commencing with Section 583.110) of Title 8 of Part 2 of the Code of Civil Procedure does not apply to an action commenced under this chapter.

CHAPTER 1706

An act to amend Sections 46300, 51769, and 52372 of, and to add Section 52372.1 to, the Education Code, relating to vocational education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 46300 of the Education Code is amended to read:

46300. (a) In computing average daily attendance of a school district, there shall be included the attendance of pupils while engaged in educational activities required of those pupils and under the immediate supervision and control of an employee of the district who possessed a valid certification document, registered as required by law, authorizing him or her to render service in the capacity and during the period in which he or she served.

(b) For the purposes of work experience education programs in the secondary schools meeting the standards of the California State Plan for Vocational Education, "immediate supervision" of off-campus work training stations means pupil participation in on-the-job training as outlined under a training agreement,

coordinated by the school district under a state-approved plan, wherein the employer and certificated school personnel share the responsibility for on-the-job supervision. The pupil-teacher ratio in any such work experience program shall not exceed 125 students per full-time equivalent certificated coordinator.

A pupil enrolled in a work experience program shall not be credited with more than one day of attendance per calendar day, and shall be a full-time student enrolled in regular classes meeting the requirements set forth in Section 46141 or 46144.

(c) For the purposes of the rehabilitative schools, classes, or programs described in Section 48907.5 which require immediate supervision, "immediate supervision" means that the person to whom the pupil is required to report for training, counseling, tutoring, or other prescribed activity shares the responsibility for the supervision of the pupils in the rehabilitative activities with certificated personnel of the district.

A pupil enrolled in a rehabilitative school, class, or program shall not be credited with more than one day of attendance per calendar day.

(d) For the purposes of computing the average daily attendance of pupils engaged in the educational activities required of high school pupils who are also enrolled in a regional occupational center or regional occupational program, the school district shall receive proportional average daily attendance credit for those educational activities which are less than the minimum schoolday, pursuant to regulations adopted by the State Board of Education; provided that none of that attendance is counted for purposes of computing attendance pursuant to Section 52324.

A school district shall not receive proportional average daily attendance credit pursuant to this subdivision for any pupil in attendance for less than 145 minutes each day.

The divisor for computing proportional average daily attendance pursuant to this subdivision shall be 240; except, in the case of a pupil excused from physical education classes pursuant to Section 52316, the divisor shall be 180.

Notwithstanding any other provision of law, travel time of pupils to attend a regional occupational center or regional occupational program shall not be used in any manner in the computation of average daily attendance.

(e) In computing the average daily attendance of a school district, there shall also be included the attendance of pupils participating in an independent study program conducted pursuant to Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28.

A pupil enrolled in an independent study program shall not be credited with more than one day of attendance per calendar day.

(f) For purposes of cooperative vocational education programs and community classrooms described in Section 52372.1, "immediate supervision" means pupil participation in paid and unpaid on-the-job experiences as outlined under a training agreement and

individualized training plans wherein the supervisor of the training site and certificated school personnel share the responsibility for the supervision of on-the-job experiences.

SEC. 1.5. Section 46300 of the Education Code, as amended by Senate Bill 786, is amended to read:

46300. (a) In computing average daily attendance of a school district, there shall be included the attendance of pupils while engaged in educational activities required of those pupils and under the immediate supervision and control of an employee of the district who possessed a valid certification document, registered as required by law, authorizing him or her to render service in the capacity and during the period in which he or she served.

(b) For the purposes of work experience education programs in the secondary schools meeting the standards of the California State Plan for Vocational Education, "immediate supervision" of off-campus work training stations means pupil participation in on-the-job training as outlined under a training agreement, coordinated by the school district under a state-approved plan, wherein the employer and certificated school personnel share the responsibility for on-the-job supervision. The pupil-teacher ratio in any such work experience program shall not exceed 125 students per full-time equivalent certificated coordinator.

A pupil enrolled in a work experience program shall not be credited with more than one day of attendance per calendar day, and shall be a full-time student enrolled in regular classes meeting the requirements set forth in Section 46141 or 46144.

(c) For the purposes of the rehabilitative schools, classes, or programs described in Section 48907.5 which require immediate supervision, "immediate supervision" means that the person to whom the pupil is required to report for training, counseling, tutoring, or other prescribed activity shares the responsibility for the supervision of the pupils in the rehabilitative activities with certificated personnel of the district.

A pupil enrolled in a rehabilitative school, class, or program shall not be credited with more than one day of attendance per calendar day.

(d) For the purposes of computing the average daily attendance of pupils engaged in the educational activities required of high school pupils who are also enrolled in a regional occupational center or regional occupational program, the school district shall receive proportional average daily attendance credit for those educational activities which are less than the minimum schoolday, pursuant to regulations adopted by the State Board of Education; provided that none of that attendance is counted for purposes of computing attendance pursuant to Section 52324.

A school district shall not receive proportional average daily attendance credit pursuant to this subdivision for any pupil in attendance for less than 145 minutes each day.

The divisor for computing proportional average daily attendance

pursuant to this subdivision shall be 240; except, in the case of a pupil excused from physical education classes pursuant to Section 52316, the divisor shall be 180.

Notwithstanding any other provision of law, travel time of pupils to attend a regional occupational center or regional occupational program shall not be used in any manner in the computation of average daily attendance.

(e) In computing the average daily attendance of a school district, there shall also be included the attendance of pupils participating in an independent study program conducted pursuant to Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28.

A pupil enrolled in an independent study program shall not be credited with more than one day of attendance per calendar day.

(f) In computing the average daily attendance of a school district, school districts operating staff development programs with local funds may conduct those programs during the regular school year and receive full average daily attendance reimbursement. The total time allowed pursuant to this subdivision and Sections 44670.6, 52022, and 52854 shall not exceed eight days each year for each participating staff member.

(g) For purposes of cooperative vocational education programs and community classrooms described in Section 52372.1, "immediate supervision" means pupil participation in paid and unpaid on-the-job experiences as outlined under a training agreement and individualized training plans wherein the supervisor of the training site and certificated school personnel share the responsibility for the supervision of on-the-job experiences.

SEC. 2. Section 51769 of the Education Code is amended to read:

51769. Notwithstanding any provision of this code or the Labor Code to the contrary, the school district, county superintendent of schools, or any school administered by the State Department of Education under whose supervision work experience education, cooperative vocational education, or community classrooms, as defined by regulations adopted by the Superintendent of Public Instruction, are provided shall be considered the employer under Division 4 (commencing with Section 3200) of the Labor Code of persons receiving this training unless the persons during the training are being paid a cash wage or salary by a private employer, or unless the person or firm under whom the persons are receiving work experience or occupational training elects to provide workers' compensation insurance. An apprentice, while attending related and supplemental instruction classes, shall be considered to be in the employ of the apprentice's employer and not subject to this section, unless the apprentice is unemployed. Whenever this work experience education, cooperative vocational education, or community classroom education, is under the supervision of a regional occupational center or program operated by two or more school districts pursuant to Section 52301, the district of residence of the persons receiving the training shall be deemed the employer for

the purposes of this section.

SEC. 3. Section 52372 of the Education Code is amended to read:

52372. The governing board of any high school district, subject to the provisions of this code relating to courses of study for high schools, the governing board of any joint powers regional occupational center or program, or the county superintendent of schools which conducts any county-operated regional occupational center or program, may establish and maintain, in connection with any high school or regional occupational center or program under its or his or her jurisdiction, cooperative vocational education programs or community classrooms as part of a vocational education course in accordance with rules and regulations prescribed by the Superintendent of Public Instruction.

SEC. 4. Section 52372.1 is added to the Education Code, to read:

52372.1. (a) The Superintendent of Public Instruction shall adopt rules and regulations for cooperative vocational education programs and community classrooms. The rules and regulations shall include, but need not necessarily be limited to, all of the following:

(1) Selection and approval of work and training stations.

(2) Related classroom instruction.

(3) Supervision of students while in training.

(4) Joint venture training agreements and plans.

(5) Student teacher ratios.

(6) Paid and unpaid on-the-job experiences.

(7) Credit for participation in cooperative vocational education programs and community classrooms.

(b) As used in this section, "cooperative vocational education programs" includes cooperative agreements between schools and employers to provide students with paid on-the-job experiences, as well as vocational education instruction contributing to the student's education and employability.

(c) As used in this section, "community classrooms" includes instructional methodologies which are part of a vocational education course, and which may utilize the facilities and equipment of a public agency or private business to provide students the opportunity to expand competencies developed in a vocational course in unpaid on-the-job experiences.

(d) Joint venture agreements shall be entered into between the director and the management of the community classroom site to ensure that students will be provided, through unpaid on-the-job experiences, the opportunity to expand the competencies developed in the classroom instruction portion of their training.

Each instructor, in cooperation with the business or agency in which the student will be placed, shall develop an individualized training plan for each pupil enrolled in a community classroom.

(e) All statutes and regulations applicable to minors in employment relationships apply to cooperative vocational education programs and to community classrooms.

(f) For purposes of this section, "public agency" means any public

agency capable of providing unpaid on-the-job experience meeting all of the following requirements:

(1) The on-the-job experiences are in occupations for which there is a local job market.

(2) The on-the-job experiences are equivalent to those which could be received for each specific occupational area as if they were held at a private business site.

SEC. 5. Section 1.5 of this bill incorporates amendments to Section 46300 of the Education Code proposed by both this bill and SB 786. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 46300 of the Education Code, and (3) this bill is enacted after SB 786, in which case Section 46300 of the Education Code, as amended by SB 786, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Section 1 of this bill shall not become operative.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide the statutory authority for offering unpaid occupational training programs in community settings, otherwise known as community classrooms, at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1707

An act to amend Sections 6012.2, 6368, 6368.1, 6592, 7262, 7305, 7355, 7401, 7408, 7409, 7451, 7726, 8752, 9196, 43301, and 43303 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 6012.2 of the Revenue and Taxation Code is amended to read:

6012.2. (a) For purposes of this part, "gross receipts" from the sale of a used mobilehome, as defined in Section 18014 of the Health and Safety Code, and the "sales price" of a used mobilehome, sold or stored, used, or otherwise consumed in this state shall be based on the current value of the used mobilehome, as determined by a recognized value guide, whenever a registered or legal owner sells a used mobilehome through a person licensed under the Health and Safety Code as a dealer and not on the dealer's own account or through a licensed real estate broker acting pursuant to Section

10131.6 of the Business and Professions Code, or whenever a purchaser of a used mobilehome is required to pay the use tax to the Department of Housing and Community Development. The State Board of Equalization shall approve the value guides for use within this state through regulation.

(b) For the purposes of this part, "gross receipts" from the sale of a mobilehome, whether new or used, and the "sales price" of a mobilehome, whether new or used, shall exclude the amount of separately stated escrow fees on the sale of such mobilehome.

(c) This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends that date.

SEC. 1.3. Section 6368 of the Revenue and Taxation Code is amended to read:

6368. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of watercraft and any sales of tangible personal property becoming a component part of that watercraft in the course of constructing, repairing, cleaning, altering, or improving the same, and charges made for labor and services rendered in respect to that constructing, repairing, cleaning, altering, or improving, if any of the following conditions are met:

(1) The watercraft is for use in interstate or foreign commerce involving the transportation of property or persons for hire.

(2) The watercraft is for use in commercial deep sea fishing operations outside the territorial waters of this state by persons who are regularly engaged in commercial deep sea fishing.

(3) The watercraft is functionally used 80 percent or more of the time in the transporting for hire of property or persons to vessels or offshore drilling platforms located outside the territorial waters of this state.

(b) For purposes of this section, it shall be rebuttably presumed that a person is not regularly engaged in the business of commercial deep sea fishing if the person has gross receipts from commercial fishing operations of less than five thousand dollars ($5,000) a year.

SEC. 1.5. Section 6368.1 of the Revenue and Taxation Code is amended to read:

6368.1. (a) There are exempted from the taxes imposed by this part, the gross receipts from the sale of and the storage, use, or other consumption in this state of watercraft which are leased, or are sold to persons for the purpose of leasing, and any sales of tangible personal property becoming a component part of such watercraft in the course of constructing, repairing, cleaning, altering, or improving the same, and charges made for labor and services rendered in respect to such constructing, repairing, cleaning, altering, or improving, if any of the following conditions are met:

(1) The lessee uses the watercraft in interstate and foreign commerce involving the transportation of property or persons for hire.

(2) The watercraft is for use in commercial deep sea fishing operations outside the territorial waters of this state by persons who are regularly engaged in commercial deep sea fishing.

(3) The lessee functionally uses the watercraft 80 percent or more of the time in the transporting for hire of property or persons to vessels or offshore drilling platforms located outside the territorial waters of this state.

(b) For purposes of this section, it shall be rebuttably presumed that a person is not regularly engaged in the business of commercial deep sea fishing if the person has gross receipts from commercial fishing operations of less than five thousand dollars ($5,000) a year.

SEC. 2. Section 6592 of the Revenue and Taxation Code is amended to read:

6592. If the board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 6476, 6477, 6511, 6565, and 6591.

Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 3. Section 7262 of the Revenue and Taxation Code, as amended by Section 11 of Chapter 17 of the Statutes of 1984, is amended to read:

7262. (a) The use tax portion of any transactions and use tax ordinance adopted under this part shall impose a complementary tax upon the storage, use or other consumption in the district of tangible personal property purchased from any retailer for storage, use or other consumption in the district. Such tax shall be at a rate of one-half of 1 percent of the sales price of the property whose storage, use or other consumption is subject to the tax, and the ordinance shall include provisions in substance as follows:

(1) Provisions identical to those contained in Part 1 (commencing with Section 6001) of this division, insofar as they relate to use taxes and are not inconsistent with this part, except that the name of the district as the taxing agency shall be substituted for that of the state. The name of the district shall be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 and in the definition of that phrase.

An additional provision shall be included that a retailer engaged in business in the district shall not be required to collect use tax from the purchaser of tangible personal property unless the retailer ships or delivers the property into the district or participates within the district in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the district or through any representative, agent, canvasser, solicitor, subsidiary or person in the district under authority of the retailer.

(2) A provision that all amendments subsequent to the effective date of this part to the provisions of Part 1 (commencing with Section 6001) of this division relating to the use tax and not inconsistent with this part shall automatically become a part of the ordinance; provided, however, that no such amendment shall operate so as to affect the rate of tax imposed by the district's board.

(3) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, or the amount of any state-administered transactions or use tax.

(4) A provision that any person subject to a use tax under an ordinance adopted pursuant to this part shall be entitled to credit against that tax any transactions tax or reimbursement for transactions tax paid to a district or retailer in a district imposing a transactions tax pursuant to this part.

(5) A provision that, in addition to the exemptions provided in Sections 6366 and 6366.1 of this code, the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempt from the use tax.

(6) A provision that the storage, use, or other consumption in the district of tangible personal property is exempt from tax if purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of the ordinance. The possession of, or the exercise of any right or power over, tangible personal property under a lease which is a continuing purchase of such property is exempt from tax for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of the ordinance. For the purposes of this subdivision, storage, use, or other consumption, or possession, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

(b) This section shall cease to be operative on March 1, 1984, and thereafter this section shall become operative on January 1, 1986.

SEC. 3.1. Section 7262 of the Revenue and Taxation Code, as amended by Section 12 of Chapter 17 of the Statutes of 1984, is amended to read:

7262. (a) The use tax portion of any transactions and use tax ordinance adopted under this part shall impose a complementary tax upon the storage, use or other consumption in the district of tangible personal property purchased from any retailer for storage, use or

other consumption in the district. Such tax shall be at a rate of one-half of 1 percent of the sales price of the property whose storage, use or other consumption is subject to the tax, and the ordinance shall include provisions in substance as follows:

(1) Provisions identical to those contained in Part 1 (commencing with Section 6001) of this division, insofar as they relate to use taxes and are not inconsistent with this part, except that the name of the district as the taxing agency shall be substituted for that of the state. The name of the district shall be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 and in the definition of that phrase.

An additional provision shall be included that a retailer engaged in business in the district shall not be required to collect use tax from the purchaser of tangible personal property unless the retailer ships or delivers the property into the district or participates within the district in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the district or through any representative, agent, canvasser, solicitor, subsidiary or person in the district under authority of the retailer.

(2) A provision that all amendments subsequent to the effective date of this part to the provisions of Part 1 (commencing with Section 6001) of this division relating to the use tax and not inconsistent with this part shall automatically become a part of the ordinance; provided, however, that no such amendment shall operate so as to affect the rate of tax imposed by the district's board.

(3) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, or the amount of any state-administered transactions or use tax.

(4) A provision that any person subject to a use tax under an ordinance adopted pursuant to this part shall be entitled to credit against that tax any transactions tax or reimbursement for transactions tax paid to a district or retailer in a district imposing a transactions tax pursuant to this part.

(5) A provision that the storage, use, or other consumption of tangible personal property purchased by operators of waterborne vessels and used or consumed by such operators directly and exclusively in the carriage of persons or property in such vessels for commercial purposes is exempt from the use tax.

(6) A provision that, in addition to the exemptions provided in Sections 6366 and 6366.1 of this code, the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempt from the use

tax.

(7) A provision that the storage, use, or other consumption in the district of tangible personal property is exempt from tax if purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of the ordinance. The possession of, or the exercise of any right or power over, tangible personal property under a lease which is a continuing purchase of such property is exempt from tax for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of the ordinance. For the purposes of this subdivision, storage, use, or other consumption, or possession, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

(b) This section shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends that date.

SEC. 3.2. Section 7305 of the Revenue and Taxation Code is amended to read:

7305. "Distribution" includes any of the following:

(a) The refining, manufacturing, producing, blending, or compounding of motor vehicle fuel in this state, and the sale, donation, consignment for sale, barter, or use of the fuel in this state.

(b) The refining, manufacturing, producing, blending, or compounding of motor vehicle fuel in this state from petroleum products owned by another and the delivery of the fuel in this state to the owner thereof or to any person on his or her order.

(c) The importing of motor vehicle fuel into this state, and the sale, donation, consignment for sale, barter, or use of the fuel in this state unless the state is prohibited by the Constitution or laws of the United States from imposing a tax with respect to that sale, donation, consignment for sale, barter or use; provided, however, that motor vehicle fuel brought into this state in the usual and ordinary fuel supply tank connected to the engine of a motor vehicle shall not be deemed to be "imported" if not removed from that tank except as used for the propulsion of the engine, except to the extent that fuel was acquired tax free for export or a refund of tax was claimed on account of exportation from the state from which that fuel was transported into this state.

(d) The receiving in this state by a licensed distributor of motor vehicle fuel with respect to which there has been no prior taxable distribution, or the receipt in this state by any person, other than a licensed distributor or licensed broker under the conditions set forth in paragraph (5) of subdivision (a) of Section 7401, of motor vehicle fuel with respect to which there has not been a prior distribution on which tax has been paid pursuant to this part, and the sale, donation, consignment for sale, barter, or use of the fuel in this state.

(e) The withdrawal of motor vehicle fuel from storage in this state for the purpose of the sale, donation, consignment for sale, barter or use of the fuel in this state if the consummation of that purpose does not otherwise constitute a distribution taxable under this part, in which event the license tax with respect to the fuel withdrawn from storage is measured by the gallonage thereof thus sold, donated, consigned for sale, bartered or used.

(f) For the purpose of subdivisions (a), (c), (d), and (e), "consignment for sale" does not include the withdrawal of motor vehicle fuel from storage and the transfer of the fuel into storage at a bulk plant operated by an agent acting in a representative capacity for and on behalf of the distributor for the distribution of that fuel when title to, and control of, the fuel remains in the distributor until it is distributed, and all distributions by the agent are made in the name of, and for the account of, the distributor, notwithstanding that the agent may under the conditions of his or her agency agreement with the distributor be considered an independent contractor with respect to the operation of the bulk plant.

SEC. 4. Section 7355 of the Revenue and Taxation Code is amended to read:

7355. "Gallon" means the United States gallon of 231 cubic inches, without adjustment of the volumetric gallonage for temperature correction of the fuel distributed, except that temperature-corrected gallonage to 60 degrees Fahrenheit as invoiced to the purchaser with settlement made on the same basis will be accepted as the gallonage distributed with respect to the following distributions:

(a) To a distributor licensed under this part.

(b) To any person when the distribution is exempt from tax as provided in Section 7401.

(c) To a purchaser who uses the fuel exclusively for a purpose other than in motor vehicles operated upon the public highways of this state entitling him to a refund of the tax.

(d) To the United States government or any agency or instrumentality thereof pursuant to a contract of sale requiring application of temperature correction.

(e) To any person when the quantity distributed in any single delivery to a single location is 5,000 or more gallons and temperature correction is consistently applied to all those deliveries to the purchaser over a period of 12 or more consecutive months.

SEC. 5. Section 7401 of the Revenue and Taxation Code is amended to read:

7401. (a) The provisions of this part requiring the payment of license taxes do not apply to any of the following:

(1) Natural gasoline distributed to a duly licensed distributor under such regulations as the board may prescribe.

(2) Motor vehicle fuel exported from this state by the distributor or delivered by the distributor to any vessel clearing from a port of this state for a port outside of this state and actually exported from

this state in the vessel.

(3) Motor vehicle fuel distributed, or delivered on the order of the owner, to a distributor who has furnished bond as prescribed by Sections 7486 and 7487 of not less than fifty thousand dollars ($50,000), nor more than five hundred thousand dollars ($500,000), and who has established to the satisfaction of the board that this bond, together with property to which the lien imposed by Section 7872 attaches, is sufficient security to assure payment of all license taxes as they may become due to the state from him or her under this part.

(4) Motor vehicle fuel sold to the United States armed forces for use in ships or aircraft, or for use outside this state.

(5) Motor vehicle fuel distributed to any licensed distributor, or to any licensed broker who has furnished bond in the form and amount required of distributors under Article 2.1 (commencing with Section 7486) of Chapter 4, for sale to the United States armed forces for use in ships or aircraft or use outside this state. Notwithstanding any other provisions of this part, the receiving of motor vehicle fuel in this state from a licensed distributor and the sale and delivery of the fuel to the United States armed forces pursuant to this subdivision shall not constitute a broker a distributor under this part.

(b) Every distributor claiming an exemption shall report the exports, sales or distributions to the board in such detail as the board may require; otherwise the exemption granted in this section shall be null and void and all the fuel shall be considered distributed in this state subject fully to the provisions of this part.

SEC. 6. Section 7408 of the Revenue and Taxation Code is amended to read:

7408. Any distributor or broker who acquires motor vehicle fuel pursuant to paragraph (5) of subdivision (a) of Section 7401 shall furnish to the distributor an exemption certificate executed by the armed forces and in the form as prescribed by the board. The distributor shall retain the certificate in his records in support of the exemption.

SEC. 7. Section 7409 of the Revenue and Taxation Code is amended to read:

7409. Any distributor or broker who purchases or acquires motor vehicle fuel pursuant to paragraph (5) of subdivision (a) of Section 7401 who fails to deliver it to the United States armed forces, or who diverts it from interstate or foreign transit begun in this state, or who returns it to this state for sale or use so as to avoid any of the taxes imposed by this part, shall be liable for the tax, penalty, and interest, as provided in Article 4 (commencing with Section 7726) of Chapter 5; and the distributor or broker shall also be subject to prosecution as provided in Section 8401.

SEC. 8. Section 7451 of the Revenue and Taxation Code is amended to read:

7451. Every person before becoming a distributor shall apply to the board for a license authorizing the person to engage in business

as a distributor. A distributor's license shall be issued only to a person who is a distributor of motor vehicle fuel within the meaning of the word "distribution" as defined in Section 7305, or who is an aircraft manufacturer, or certificated or licensed carrier by air. If an applicant for a license applies therefor to become authorized to distribute motor vehicle fuel under subdivision (c) or (d) of Section 7305 and is not engaged in refining, manufacturing, or producing motor vehicle fuel in this state, the board may limit the authorization granted by the license issued to that person to transactions under subdivision (c) or (d) of Section 7305 and the provisions of paragraph 3 of subdivision (a) of Section 7401 shall not be applicable to the person whose license is so limited. It is unlawful for any person to be a distributor without first securing a license.

SEC. 9. Section 7726 of the Revenue and Taxation Code is amended to read:

7726. If any person becomes a distributor without first securing a license, the license tax, applicable penalties and interest, if any, become immediately due and payable on account of all motor vehicle fuel distributions made by him or her.

Except as provided in Section 7356 and paragraph (5) of subdivision (a) of Section 7401, a broker who acquires motor vehicle fuel with respect to which there has not been a distribution on which tax has been paid pursuant to this part, commingles any untaxed product with tax-paid fuel and distributes the resultant product as motor vehicle fuel, or sells or otherwise distributes any untaxed product for resale or use as motor vehicle fuel, shall be regarded as an unlicensed distributor of that gallonage of motor vehicle fuel or product distributed or in his or her possession which is in excess of his or her acquisition of motor vehicle fuel from distributions with respect to which the tax has been paid, and shall be subject to the provisions of this article as an unlicensed distributor of that excess fuel, unless he or she shall establish that the license tax has been paid with respect to all fuel sold or otherwise disposed of by him or her.

SEC. 10. Section 8752 of the Revenue and Taxation Code is amended to read:

8752. On or before the 25th day of each month, every user shall, except as otherwise provided in Section 8608, file on forms prescribed by the board a return showing the amount of fuel used during the preceding calendar month by the user in this state, the amount of any tax due, and such other information as the board may require to carry out the purposes of this part, except that the provisions of this section shall not be applicable to any user whose sole use of fuel subject to the tax imposed by this part is for the propulsion of a privately operated passenger automobile, provided that the fuel used in this state, except fuel brought into this state in the fuel tank of the vehicle, is purchased from and delivered into the fuel tank of the vehicle by a vendor holding a permit issued under this part.

SEC. 11. Section 9196 of the Revenue and Taxation Code is

amended to read:

9196. If any amount in excess of five thousand dollars ($5,000) has been illegally determined either by the person filing the return or by the board, the board shall set forth that fact in its records and certify to the State Board of Control the amount determined to be in excess of the amount legally due and the person against whom the determination was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the board. If an amount not exceeding five thousand dollars ($5,000) has been illegally determined either by the person filing a return or by the board the board without certifying this fact to the State Board of Control shall authorize the cancellation of the amount upon the records of the board.

SEC. 12. Section 43301 of the Revenue and Taxation Code is amended to read:

43301. Any person from whom an amount is determined to be due under Article 2 (commencing with Section 43201), or any person directly interested, may petition for a redetermination thereof within 30 days after service upon him or her of notice of the determination. If a petition for redetermination is not filed within the 30-day period, the amount determined to be due becomes final at the expiration thereof.

No petition for redetermination of taxes determined under this part shall be accepted or considered by the board if the petition is founded upon the grounds that the director has improperly or erroneously determined that any substance is a hazardous or extremely hazardous waste. Any appeal of a determination that a substance is a hazardous or extremely hazardous waste shall be made to the director.

SEC. 13. Section 43303 of the Revenue and Taxation Code is amended to read:

43303. If a petition for redetermination is filed within the 30-day period, the board shall reconsider the amount determined to be due, and, if the person has so requested in his or her petition, the board shall grant him or her an oral hearing and shall give him or her 10 days' notice of the time and place of the hearing. The board may continue the hearing from time to time as may be necessary.

SEC. 14. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

CHAPTER 1708

An act to amend Sections 17285 and 24343.7 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 17285 of the Revenue and Taxation Code is amended to read:

17285. In addition to the deduction allowed for trade or business expenses and any other deductions allowed by this part, a taxpayer who donates unspoiled agricultural products under Chapter 5 (commencing with Section 58501) of Part 1 of Division 21 of the Food and Agricultural Code shall be allowed as a deduction an amount equal to the cost of those unspoiled agricultural products.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless prior to that date, a later chaptered statute deletes or extends that date.

SEC. 2. Section 24343.7 of the Revenue and Taxation Code is amended to read:

24343.7. In addition to the deduction allowed for trade or business expenses and any other deductions allowed by this part, a taxpayer who donates unspoiled agricultural products under Chapter 5 (commencing with Section 58501) of Part 1 of Division 21 of the Food and Agricultural Code shall be allowed as a deduction an amount equal to the cost of those unspoiled agricultural products.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless prior to that date, a later chaptered statute deletes or extends that date.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1709

An act to add Title 10 (commencing with Section 14110) to Part 4 of the Penal Code, relating to violence, and making an appropriation therefor.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984]

I am reducing the appropriation contained in Section 2 of Assembly Bill No. 3646 from $500,000 to $250,000.

The programs to be funded by this bill will address the root problems of family violence, childhood development, and abuse of children, spouses and the elderly. This reduced appropriation is adequate to test the effectiveness of such programs.

With this reduction, I approve Assembly Bill No. 3646.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Title 10 (commencing with Section 14110) is added to Part 4 of the Penal Code, to read:

TITLE 10. COMMUNITY VIOLENCE PREVENTION AND CONFLICT RESOLUTION

14110. The Legislature finds the following:

(a) The incidence of violence in our state continues to present an increasing and dominating societal problem that must be addressed at its root causes in order to reduce significantly its effects upon our society.

(b) As an initial step toward that goal, the Legislature passed Assembly Bill No. 23 of the 1979–80 Regular Session which created the California Commission on Crime Control and Violence Prevention which was charged with compiling the latest research on root causes of violence, in order to lay the foundation for a credible, effective violence eradication program.

(c) The commission produced a final report in 1982 entitled "Ounces of Prevention," which established that long-term prevention is a valuable and viable public policy and demonstrated that there are reachable root causes of violence in our society.

(d) The report contains comprehensive findings and recommendations in 10 broad categorical areas for the removal of individual, familial, and societal causal factors of crime and violence in California.

(e) The recommendations in the report are feasible and credible, propose an effective means of resolving conflict and removing the root causes of violence in our society, and should be implemented, so that their value may be provided to our citizenry.

14111. The Legislature further finds that:

(a) It is in the public interest to translate the findings of the California Commission on Crime Control and Violence Prevention into community-empowering, community-activated violence prevention efforts that would educate, inspire, and inform the citizens of California about, coordinate existing programs relating to, and provide direct services addressing the root causes of, violence in California.

(b) The recommendations in the report of the commission can serve as both the foundation and guidelines for short, intermediate, and long-term programs to address and alleviate violence in California.

(c) It is in the public interest to facilitate the highest degree of

coordination between, cooperation among, and utilization of public, nonprofit, and private sector resources, programs, agencies, organizations, and institutions toward maximally successful violence prevention and crime control efforts.

(d) Prevention is a sound fiscal, as well as social, policy objective. Crime and violence prevention programs can and should yield substantially beneficial results with regard to the exorbitant costs of both violence and crime to the public and private sectors.

(e) The Office of Criminal Justice Planning is the appropriate state agency to contract for programs addressing the root causes of violence.

14112. The Legislature therefore intends:

(a) To develop community violence prevention and conflict resolution programs, in the state, based upon the recommendations of the California Commission on Crime Control and Violence Prevention, that would present a balanced, comprehensive educational, intellectual, and experiential approach toward eradicating violence in our society.

(b) That these programs shall be regulated, and funded pursuant to contracts with the Office of Criminal Justice Planning.

14113. (a) The Office of Criminal Justice Planning shall contract for four two-year community violence prevention and conflict resolution pilot programs throughout this state. They shall be commenced after July 1, 1985. Each of the four pilot programs may continue for a maximum of two years.

(b) Each program shall address the following subject areas as they interrelate with violence and to the extent they affect the geographic area served by the programs:

(1) Parenting, birthing, early childhood development, self-esteem, and family violence, to include child, spousal, and elderly abuse.

(2) Economic factors and institutional racism.

(3) Schools and educational factors.

(4) Alcohol, diet, drugs, and other biochemical and biological factors.

(5) Conflict resolution.

(6) The media.

14114. First priority shall be given to programs which provide community education, outreach, coordination, and include creative and effective ways to translate the recommendations of the California Commission on Crime Control and Violence Prevention into practical use in one or more of the subject areas set forth in Section 14113. At least three of the programs shall do all of the following:

(a) Use the recommendations of the California Commission on Crime Control and Violence Prevention and incorporate as many of those recommendations as possible into its program.

(b) Develop an intensive community-level educational program directed toward violence prevention. This educational component

shall incorporate the commission's works "Ounces of Prevention" and "Taking Root," and shall be designed appropriately to reach the educational, ethnic, and socioeconomic individuals, groups, agencies, and institutions in the community.

(c) Include the imparting of conflict resolution skills.

(d) Coordinate with existing community-based, public and private, programs, agencies, organizations, and institutions, local, regional, and statewide public educational systems, criminal and juvenile justice systems, mental and public health agencies, appropriate human service agencies, and churches and religious organizations.

(e) Seek to provide specific resource and referral services to individuals, programs, agencies, organizations, and institutions confronting problems with violence and crime if the service is not otherwise available to the public.

(f) Reach all local ethnic, cultural, linguistic, and socioeconomic groups in the service area to the maximum extent feasible.

14114.5. Other programs shall include subdivisions (a) and (f) of Section 14114 and may include public lectures or sponsoring of conferences, or both.

14115. (a) First priority programs may additionally provide specific direct services or contract for those services in one or more of the program areas as necessary to carry out the recommendations of the commission when those services are not otherwise available in the community and existing agencies do not furnish them. Direct services may include, but are not limited to, any of the following:

(1) Training seminars for law enforcement and human service agencies and operatives.

(2) Crisis intervention training and counseling.

(3) Casework and program consultation with local human service providers.

(4) Drug and alcohol counseling and treatment referral.

(5) Conflict resolution training and services, including the principles and practices of conflict mediation, arbitration, and "citizen tribunal" programs.

(b) All direct services are subject to Section 5328 of the Welfare and Institutions Code.

14116. Second priority shall be given to programs that conform to the requirements of Section 14114, except that the educational component of subdivision (f) of that section shall not be mandatory in each subject area, but shall be provided in at least three of those areas, and the programs shall provide specific direct services or contract for services in one or more program areas.

14117. (a) Each program shall have a governing board or an interagency coordinating team, or both, of at least nine members representing a cross section of existing and recipient, community-based, public and private persons, programs, agencies, organizations, and institutions. Each team shall do all of the following:

(1) As closely as possible represent the socioeconomic, ethnic, linguistic, and cultural makeup of the community and shall evidence an interest in and commitment to the categorical areas of violence prevention and conflict resolution.

(2) Be responsible for the implementation, evaluation, and operation of the program and all its constituent elements, including such specific direct services as may be provided pursuant to Section 14115.

(3) Be accountable for the distribution of all funds.

(4) Designate and appoint a responsible administrative authority acceptable to the Office of Criminal Justice Planning prior to the receipt of a grant.

(5) Submit an annual report to the Office of Criminal Justice Planning which shall include information on all of the following:

(A) The number of learning events.

(B) The number of persons trained.

(C) An overview of the changing level of information regarding root causes of violence.

(D) An overview of the changing level of attitude regarding root causes of violence.

(E) The changing level of behavior regarding root causes of violence.

(F) The degree to which the program has been successful in satisfying the requirements set forth in subdivisions (e) and (f) of Section 14114.

(G) Other measures of program efficacy as specified by the Office of Criminal Justice Planning.

(b) Coordinating teams established under this section may adopt local policies, procedures, and bylaws consistent with this title.

14118. (a) During the first six months of calendar year 1985, the Office of Criminal Justice Planning shall prepare and issue written program, fiscal, and administrative guidelines for the contracted programs that are consistent with this title, including guidelines for identifying recipient programs, agencies, organizations, and institutions, and organizing the coordinating teams. The Office of Criminal Justice Planning shall then issue a request for proposals. The responses to the request for proposals shall be rated according to the priorities set forth in subdivision (b) and additional criteria established by the guidelines. The highest rated responses shall be selected. The Office of Criminal Justice Planning shall do all of the following:

(1) Subject the proposed program and administrative guidelines to a 30-day period of broad public evaluation with public hearings commencing in May 1985, prior to adoption, including specific solicitation of input from culturally, geographically, socioeconomically, educationally, and ethnically diverse persons, programs, agencies, organizations, and institutions.

(2) Provide adequate public notice of the public evaluation around the state in major metropolitan and rural newspapers and

related media outlets, and to local public, private, and nonprofit human service executives and advisory boards, and other appropriate persons and organizations.

(3) Establish a mechanism for obtaining, evaluating, and incorporating when appropriate and feasible, public input regarding the written program and administrative guidelines prior to adoption.

(b) Applicants for contracts under this title may be existing community-based public and nonprofit programs, agencies, organizations, and institutions, newly developed nonprofit corporations, or joint proposals from combinations of either or both of the above.

14119. (a) Commencing on or after July 1, 1985, the Office of Criminal Justice Planning shall contract for no more than four pilot programs as described in Section 14113.

(b) Commencing on or after July 1, 1985, the Office of Criminal Justice Planning shall promote, organize, and conduct a series of one-day crime and violence prevention training workshops around the state. The Office of Criminal Justice Planning shall seek participation in the workshops from ethnically, linguistically, culturally, educationally, and economically diverse persons, agencies, organizations, and institutions.

(c) The training workshops shall have all of the following goals:

(1) To identify phenomena which are thought to be root causes of crime and violence.

(2) To identify local manifestations of those root causes.

(3) To examine the findings and recommendations of the California Commission on Crime Control and Violence Prevention.

(4) To focus on team building and interagency cooperation and coordination toward addressing the local problems of crime and violence.

(5) To examine the merits and necessity of a local crime and violence prevention effort.

(d) There shall be at least three workshops.

14120. (a) Programs shall be funded, depending upon the availability of funds, for a period of two years.

(b) The Office of Criminal Justice Planning shall provide 50 percent of the program costs, to a maximum amount of fifty thousand dollars ($50,000) per program per year. The recipient shall provide the remaining 50 percent with other resources which may include in-kind contributions and services. The administrative expenses for the pilot programs funded under Section 14120 shall not exceed 10 percent.

(c) Programs should be seeking private sector moneys and developing ways to become self-sufficient upon completion of pilot program funding.

(d) The recipient programs shall be responsible for a yearend independent audit.

(e) The Office of Criminal Justice Planning shall do an interim evaluation of the programs, commencing in July 1986, and shall

report to the Legislature and the people with the results of the evaluation prior to October 31, 1986. The evaluation shall include, but not be limited to, an assessment and inventory of all of the following:

(1) The number of learning events.

(2) The number of persons trained.

(3) The changing level of information regarding root causes of violence.

(4) The changing level of attitude regarding root causes of violence.

(5) The changing level of behavior regarding root causes of violence.

(6) The reduced level of violence in our society.

(7) The degree to which the program has succeeded in reaching and impacting positively upon local ethnic, cultural, and socioeconomic groups in the service area.

A final evaluation shall be made with a report prior to October 31, 1987, which shall also include specific recommendations to the Legislature and the people of this state regarding methods and means by which these violence prevention and crime control programmatic efforts can be enhanced and improved.

14121. The Office of Criminal Justice Planning may hire support staff and utilize resources necessary to carry out the purposes of this title.

SEC. 2. The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the General Fund for the 1984–1985 to 1987–88 fiscal years, inclusive, to the Office of Criminal Justice Planning to fund and administer this act. Administrative and program expenses of the Office of Criminal Justice Planning shall not exceed 20 percent of this amount. The Legislature shall provide additional sums thereafter through the Budget Act.

CHAPTER 1710

An act to amend Section 18951.5 of the Government Code, to amend Section 14306 of, and to add Sections 14002, 14003, and Chapter 3.5 (commencing with Section 14400) to Division 12 of, the Public Resources Code, relating to job training, and making an appropriation therefor.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

I am reducing the appropriation contained in Section 6 of Senate Bill No. 2049 from $3 million to $1.2 million.

The reduced appropriation provides sufficient funding to the California Conservation Corps to implement this bill, while at the same time enabling the CCC to first develop the administrative functions essential to effectively contract with local corps.

With this reduction, I approve Senate Bill No. 2049.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 18951.5 of the Government Code is amended to read:

18951.5. In an examination held on an open, nonpromotional basis under Section 18950, a competitor who has served at least one full year in, or who is a graduate of, the California Conservation Corps, and who attains the passing mark established for the examination, shall have three career credits added to his or her score. Eligibility for career credits pursuant to this section shall expire 24 months after graduation from the California Conservation Corps, except that the expiration date shall be extended for the period of time that a Governor's freeze on new civil service hires is in effect during the 24 months.

SEC. 2. Section 14002 is added to the Public Resources Code, to read:

14002. The Legislature finds and declares that the California Conservation Corps provides an invaluable service. The Legislature supports the corps' mission to enhance the educational opportunities and employability of corps members. To further this mission local community college districts and the corps are encouraged to enter into cooperative agreements so that corps members have access to equal educational opportunities.

Local community college districts are encouraged to recognize the unique needs and circumstances of the corps members and the corps' need for adequate facilities. Local community college districts should, to the extent possible, develop procedures to address these unique needs.

SEC. 3. Section 14003 is added to the Public Resources Code, to read:

14003. (a) The Legislature finds and declares that the State of California has already established a model conservation corps program and that redundant federal and state programs to carry out resource protection and conservation within the state are not in the best interests of the state. Rather, it is in the best interests of the state that federal funds designated to be expended by federal agencies for this purpose be allocated, to the extent feasible, to the California Conservation Corps and local conservation corps.

(b) In the event that federal funds are available through the American Conservation Corps, the California Conservation Corps is hereby designated as the program recipient for the State of California. The director shall have the authority to adopt, amend, and repeal regulations to implement the program consistent with the federal requirements and with this division.

SEC. 4. Section 14306 of the Public Resources Code is amended

to read:

14306. To implement the provisions of this division, the director may do all of the following:

(a) Recruit and employ corpsmembers and special corpsmembers.

(b) Adopt criteria for selecting applicants for employment in the corps' program.

(c) Execute contracts containing such terms and conditions as are deemed necessary and desirable for the employment of corpsmembers.

(d) Authorize utilization of the corps for emergency projects occasioned by natural disasters, fire prevention and suppression, rescue of lost or injured persons, and any other activity or project necessary or desirable to carry out the purposes of this division.

(e) Apply for and accept grants or contributions of funds from any public or private source.

(f) Purchase, rent, or otherwise acquire or obtain necessary property, supplies, instruments, tools, equipment, and conveniences.

(g) Execute contracts for furnishing the services of the corps to any federal, state, or local public agency; any local or statewide private organization concerned with the objectives of the corps' program, as specified in Sections 14000 and 14300; and any person, firm, partnership, or corporation concerned with these objectives.

(h) Procure insurance.

(i) Be reimbursed by the federal government, any state or local public agency, or any private organization for actual expenses incurred by the corps for any project undertaken for any such entity pursuant to subdivision (d) or (g) or pursuant to Section 14307.

(j) To the extent permitted by Article VII of the California Constitution, execute contracts with any person, natural or corporate, for the purpose of implementing the objectives of the corps, as specified in Sections 14000 and 14300.

(k) Utilize any services, material, or property of any agency of the state, and may make such agreements with any agency of the state or take such other actions as are reasonable and necessary.

(*l*) Contract with public or private nonprofit entities to provide services for the corps.

(m) Contract with the University of California, the California State University, the community college districts, and private institutions for the creation of special admission and tuition credit programs for corpsmembers.

SEC. 5. Chapter 3.5 (commencing with Section 14400) is added to Division 12 of the Public Resources Code, to read:

CHAPTER 3.5. NONRESIDENTIAL PROGRAM

14400. The California Conservation Corps shall develop nonresidential programs in neighborhoods which have high concentrations of ethnic-minority youths and which have high levels

of youth unemployment.

14401. The corps shall develop procedures for recruiting high school dropouts from the neighborhoods in which these programs are located.

14402. The corps shall give priority to providing an educational component for corpsmembers who have not completed high school. The component shall be equal in content to a high school curriculum and provide course credits leading to a high school diploma or its equivalent, such as a California high school equivalency certificate. The work of the corps shall be structured to accommodate the educational component without significantly reducing the productivity of the corps.

14403. (a) The corps shall cooperate with, and seek the cooperation of, the Private Industry Council of the local service delivery area, designated pursuant to the federal Job Training Partnership Act (P.L. 97-300), to secure employment and training services for corpsmembers.

(b) These employment and training services may include job search assistance, skills training, transitional employment, or any other services provided under the federal Job Training Partnership Act which would lead to employment for the corpsmember.

(c) Employment and training services may be provided to corpsmembers as a component of their work with the corps or upon their termination from the corps.

14404. The corps shall assist corpsmembers who desire to return to school to develop plans to accomplish this goal.

14405. Implementation of the educational component of the nonresidental program established pursuant to this chapter shall be contingent on the California Conservation Corps receiving sufficient funding from any source, including the federal Job Training Partnership Act (P.L. 97-300).

14406. The corps may contract with public or private nonprofit agencies to provide services for a nonresidential program. The public or private nonprofit agency shall meet all of the following requirements:

(a) The agency shall submit a proposal which demonstrates that its program is consistent with the policies of the corps and with this chapter.

(b) The agency shall secure funding or services from the local service delivery area for necessary employment and training services.

(c) The agency shall secure reimbursements for a significant portion of the work performed.

(d) The agency shall secure a commitment from local educational institutions that appropriate educational services will be provided.

(e) The agency shall maintain, to the extent possible, the funding from foundations and other public and private organizations for a nonresidential program. If the agency does not have an existing nonresidential program, it shall secure at least a 25-percent match

from other public or private organizations for the program.

SEC. 6. The sum of three million dollars ($3,000,000) is hereby appropriated from the General Fund to the California Conservation Corps to implement this act.

CHAPTER 1711

An act to amend Sections 970, 972, 973, 975, 976, and 977 of, and to repeal Section 974 of, the Probate Code, relating to estate taxes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 970 of the Probate Code is amended to read:

970. Whenever it appears upon any accounting, or in any appropriate action or proceeding, that an executor, administrator, trustee or other fiduciary has paid an estate tax to the federal government or the State of California under the provisions of any federal or California estate tax law, now existing or hereafter enacted, upon or with respect to any property required to be included in the gross estate of a decedent under the provisions of any such law, the amount of any tax so paid, except in a case where a testator otherwise directs in his or her will, and except in a case where by written instrument executed inter vivos direction is given for apportionment within the fund of taxes assessed upon the specific fund dealt with in such inter vivos instrument, shall be equitably prorated among the persons interested in the estate to whom such property is or may be transferred or to whom any benefit accrues.

SEC. 2. Section 972 of the Probate Code is amended to read:

972. (a) In making a proration of the federal estate tax, allowances shall be made for any exemptions granted by the act imposing the tax and for any deductions allowed by such act for the purpose of arriving at the value of the net estate.

(b) In making a proration of the California estate tax, allowances shall be made for (1) any exemptions granted by the act imposing the federal estate tax and attributable to property located in this state, and (2) any deductions allowed by such act for the purpose of arriving at the value of the net estate and attributable to property located in this state.

SEC. 3. Section 973 of the Probate Code is amended to read:

973. In cases where a trust is created, or other provision made whereby any person is given an interest in income, or an estate for years, or for life, or other temporary interest in any property or fund, the federal and California estate taxes on both such temporary interest and on the remainder thereafter shall be charged against

and be paid out of the corpus of such property or fund without apportionment between remainders and temporary estates.

SEC. 4. Section 974 of the Probate Code is repealed.

SEC. 5. Section 975 of the Probate Code is amended to read:

975. In all cases in which any property required to be included in the gross estate does not come into the possession of the executor or administrator, he or she shall be entitled, and it shall be his duty, to recover from whomever is in possession, or from the persons interested in the estate, the proportionate amount of the federal and California estate taxes payable by the persons interested in the estate with which such persons interested in the estate are chargeable under the provisions of this article, and the probate court may by order direct the payment of such amount of taxes by such persons to the executor or administrator.

SEC. 6. Section 976 of the Probate Code is amended to read:

976. The probate court, upon making a determination as provided in this article, shall make a decree or order directing the executor, administrator or other fiduciary to charge the prorated amounts against the persons against whom the federal and California estate taxes have been prorated insofar as he is in possession of property or interests of such persons against whom the charge may be made and summarily directing all other persons against whom such taxes have been prorated or who are in possession of property or interests of such persons to make payment of such prorated amounts to such executor, administrator or other fiduciary.

SEC. 7. Section 977 of the Probate Code is amended to read:

977. Except where the context otherwise requires, as used in this article:

(a) "Person interested in the estate" means any person who receives or is the beneficiary of any property transferred pursuant to a transfer which is subject to a tax imposed by any federal or California estate tax law, now existing or hereafter enacted.

(b) "Gross estate" or "estate" means all property included for federal estate tax purposes in determining the federal estate tax pursuant to the federal estate tax law.

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

In order to end confusion in the law for the courts and for California residents at the earliest opportunity, it is necessary that this act go into effect immediately.

CHAPTER 1712

An act to amend Section 48906 of the Education Code, relating to child abuse reporting.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 48906 of the Education Code is amended to read:

48906. When a principal or other school official releases a minor pupil to a peace officer for the purpose of removing the minor from the school premises, the school official shall take immediate steps to notify the parent, guardian, or responsible relative of the minor regarding the release of the minor to the officer, and regarding the place to which the minor is reportedly being taken, except when a minor has been taken into custody as a victim of suspected child abuse, as defined in Section 11165 of the Penal Code, or pursuant to Section 305 of the Welfare and Institutions Code. In those cases, the school official shall provide the peace officer with the address and telephone number of the minor's parent or guardian. The peace officer shall take immediate steps to notify the parent, guardian, or responsible relative of the minor that the minor is in custody and the place where he or she is being held. If the officer has a reasonable belief that the minor would be endangered by a disclosure of the place where the minor is being held, or that the disclosure would cause the custody of the minor to be disturbed, the officer may refuse to disclose the place where the minor is being held for a period not to exceed 24 hours. The officer shall, however, inform the parent, guardian, or responsible relative whether the child requires and is receiving medical or other treatment. The juvenile court shall review any decision not to disclose the place where the minor is being held at a subsequent detention hearing.

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

SEC. 3. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1713

An act to add Section 740.1 and Division 4.7 (commencing with Section 9201) to the Public Utilities Code, relating to public utilities.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984]

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

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) Investor-owned electrical and gas public utilities recover research, development, and demonstration program costs from their ratepayers and, therefore, those programs should reflect the needs of those taxpayers.

(b) State energy policy, reflecting state needs, should be fully considered in evaluating the research, development, and demonstration programs of utilities.

(c) It is essential that both long-term and short-term perspectives be used to evaluate research, development, and demonstration efforts.

(d) Where appropriate, the research, development, and demonstration programs of utilities should be well integrated and non-duplicative, and the results from those programs should be widely disseminated.

(e) In order to gain maximum leverage and return for state energy research, development, and demonstration expenditures, the state's effectiveness as a partner with the private sector should be increased.

(f) The establishment of a comprehensive and coordinated statewide energy research, development, and demonstration effort, which ensures that public and ratepayer dollars are efficiently spent, is vital to achieving the best resource mix for California's energy future.

SEC. 2. Section 740.1 is added to the Public Utilities Code, to read:

740.1. The commission shall consider the following guidelines in evaluating the research, development, and demonstration programs proposed by electrical and gas corporations:

(a) Projects should offer a reasonable probability of providing benefits to ratepayers.

(b) Expenditures on projects which have a low probability for success should be minimized.

(c) Projects should be consistent with the corporation's resource plan.

(d) Projects should not unnecessarily duplicate research currently, previously, or imminently undertaken by other electrical or gas corporations or research organizations.

(e) Each project should also support one or more of the following objectives:

(1) Environmental improvement.

(2) Public and employee safety.

(3) Conservation by efficient resource use or by reducing or shifting system load.

(4) Development of new resources and processes, particularly renewable resources and processes which further supply technologies.

(5) Improve operating efficiency and reliability or otherwise reduce operating costs.

SEC. 3. Division 4.7 (commencing with Section 9201) is added to the Public Utilities Code, to read:

DIVISION 4.7. CALIFORNIA ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION COORDINATION MEETING

9201. As used in this division, "meeting" means the coordination meeting composed of the participants listed in Section 9202.

9202. (a) Commencing on or before March 1, 1985, the commission and the State Energy Resources Conservation and Development Commission shall participate in a meeting on an annual basis which shall include representatives from all of the following:

(1) San Diego Gas and Electric Company.

(2) Pacific Gas and Electric Company.

(3) Southern California Gas Company.

(4) Southern California Edison Company.

(b) Invitations for attendance at the meeting may also be issued to the following:

(1) Each municipal corporation, municipal utility district, public utility district, and irrigation district which furnishes electricity.

(2) The Electric Power Research Institute.

(3) The Gas Research Institute.

(4) Representatives of consumer or ratepayer organizations as determined by the commission.

(c) The chairmanship of each meeting shall be on a rotating basis, alternating among, and selected by, the participants from the San Diego Gas and Electric Company, the Pacific Gas and Electric Company, the Southern California Gas Company, and the Southern California Edison Company.

(d) The participants in the meeting shall participate without compensation.

9203. The purpose of the meeting shall be to work towards achieving all of the following goals:

(a) Promoting consistency of research, development, and demonstration programs with state energy policy.

(b) Preventing unnecessary duplicative research, development,

and demonstration efforts.

(c) Where appropriate, freely exchanging information related to research, development, and demonstration projects.

(d) Identifying opportunities for joint funding of research, development, and demonstration projects.

CHAPTER 1714

An act to amend Sections 2323 and 2332 of the Business and Professions Code, relating to physicians and surgeons.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 2323 of the Business and Professions Code is amended to read:

2323. A medical quality review committee is hereby created for each of the districts established by Section 2322. Each committee shall be composed of persons appointed by the Governor from among residents of the district.

The medical quality review committees shall have the following composition:

(a) The first district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(b) The second district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(c) The third district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(d) The fourth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(e) The fifth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(f) The sixth district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(g) The seventh district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(h) The eighth district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(i) The ninth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(j) The 10th district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(k) The 11th district shall be composed of 40 members, 24 of whom shall hold valid physician's and surgeon's certificates, eight of whom shall be public members, and eight of whom shall be nonphysician licentiates of a healing arts board.

(*l*) The 12th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(m) The 13th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(n) The 14th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

A medical quality review committee may, pursuant to regulations adopted by the division, establish panels of five committee members consisting of three physician members, one public member, and one member who is a nonphysician licentiate of a healing arts board for the purposes of hearing and deciding cases before a committee. If for any reason, a five-member panel from one committee cannot be convened, members from other committees may be assigned to a panel for the duration of the hearing conducted by the panel. Three members shall constitute a quorum in order for a panel of a committee to conduct business. It shall require an affirmative vote of three members of a panel to decide any case, pass any measure, or make any recommendation. Where a medical quality review committee meets as a whole, a majority of the appointed membership of the committee shall constitute a quorum to conduct business. It shall require an affirmative vote of a majority of those present at a meeting of a committee constituting at least a quorum to decide any case, pass any motion, or make any recommendation.

A finding or decision by a panel established under this section shall constitute a finding or decision by a committee.

SEC. 2. Section 2332 of the Business and Professions Code is amended to read:

2332. Committees shall have the following authority and duties:

(a) To review the quality of medical care provided by physicians and surgeons.

(b) To act upon all matters assigned to it by the division and such other matters within the jurisdiction of a committee which it finds warrant action. Among its assignments, a committee may create physician peer counseling panels to provide review, education, and assistance to individual physicians, as assigned by the division, to strengthen various aspects of their practices, including the appropriate prescribing of drugs. The physician peer counseling panels shall include outside medical experts chosen by the division. Physicians under review shall participate on a voluntary basis and the records and proceedings shall be confidential and shall not be subject to discovery or subpoena.

(c) To inspect general and special hospitals pursuant to Section 2226.

(d) Where grounds for disciplinary action are found by the Attorney General to exist after the completion of investigations under this section, to hold a hearing pursuant to Section 2230. Hearings shall be conducted by the division, a committee or a panel of a committee, or an administrative law judge sitting alone.

(e) At the completion of a hearing, upon a finding of unprofessional conduct, to take appropriate disciplinary or remedial action pursuant to Sections 2227, 2228, 2229, and 2335.

(f) To convene a panel to hear a petition for reinstatement or modification of penalty as assigned by the division pursuant to Section 2307.

CHAPTER 1715

An act to amend Sections 2881, 5378, and 5384 of, and to repeal and add Chapter 2 (commencing with Section 3901) of Division 2 of, the Public Utilities Code, and to amend Sections 16500.5, 16560, and 34507 of the Vehicle Code, relating to public utilities.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984]

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

SECTION 1. Section 2881 of the Public Utilities Code is amended to read:

2881. (a) The commission shall design and implement a program whereby each telephone corporation shall provide a

telecommunications device capable of servicing the needs of the deaf or severely hearing-impaired, together with a single party line, at no charge additional to the basic exchange rate, to any subscriber who is certified as deaf or severely hearing-impaired by a licensed physician and surgeon, audiologist, or a qualified state agency. The commission shall phase in this program, on a geographical basis, over a four-year period ending on January 1, 1984.

(b) The commission shall also design and implement a program whereby each telephone corporation shall provide a dual party relay system, using third party intervention to connect deaf or severely hearing-impaired persons with persons of normal hearing by way of intercommunications devices for the deaf or severely hearing-impaired and the telephone system, making available reasonable access of all phases of public telephone service to deaf or severely hearing-impaired telephone subscribers. In order to make a dual party relay system which will meet the requirements of deaf and severely hearing-impaired persons available at a reasonable cost, the commission shall initiate an investigation, conduct public hearings to determine the most cost-effective method of providing dual party relay service to the deaf or severely hearing-impaired when using a telecommunications device, and solicit the advice, counsel, and physical assistance of statewide nonprofit consumer organizations of the deaf, during the development and implementation of the system. The commission shall phase in this program, on a geographical basis, over a three-year period ending on January 1, 1987.

(c) The commission shall also design and implement a program whereby specialized or supplemental telephone communications equipment may be provided to subscribers who are certified to be disabled at no charge additional to the basic exchange rate. The certification, including a statement of medical need for specialized telephone communications equipment, shall be provided by a licensed physician and surgeon acting within the scope of his or her license or by a qualified state agency, as determined by the commission. The commission shall implement this program on January 1, 1985. The commission shall, in this connection, study the feasibility of, and implement if determined to be feasible, personal income criteria, in addition to the medical certification of disability, for determining a subscriber's eligibility under this subdivision.

(d) The commission shall establish a rate recovery mechanism, which shall not exceed 10 cents ($0.10) per month for each telephone line of every subscriber, to allow telephone corporations to recover costs as they are incurred under this section. The commission shall require that the programs implemented under this section be identified on subscribers' bills as "communication devices funds for deaf and disabled" and shall establish a separate fund and require separate accounting for each of the programs implemented under this section.

SEC. 1.5. Chapter 2 (commencing with Section 3901) of Division

2 of the Public Utilities Code is repealed.

SEC. 2. Chapter 2 (commencing with Section 3901) is added to Division 2 of the Public Utilities Code, to read:

CHAPTER 2. INTERSTATE AND FOREIGN HIGHWAY CARRIERS OF PROPERTY AND PASSENGERS

Article 1. General Provisions and Definitions

3901. This chapter may be cited as the "Interstate and Foreign Highway Carriers' Registration Act."

3902. This chapter shall not be construed as adopting requirements for the registration of interstate or foreign highway carriers of property and passengers in excess of the standards for registration promulgated under the provisions of the Interstate Commerce Act.

3903. In the administration of this chapter, the commission shall adhere to the standards promulgated pursuant to Section 11506 of Title 49 of the United States Code.

3904. For purposes of this chapter, "highway carrier" means a motor carrier, as defined in subsection (14) of Section 10102 of Title 49 of the United States Code, of persons or property which either holds operating authority issued by the Interstate Commerce Commission or is engaged in operations exempt from regulation by the Interstate Commerce Commission pursuant to Section 10526 of Title 49 of the United States Code.

Article 2. Registration

3910. (a) No highway carrier shall engage in any interstate or foreign transportation of property or passengers for compensation by motor vehicle on any public highway in this state without first having registered the operation with the commission as follows:

(1) When the operation requires authority from the Interstate Commerce Commission under the Interstate Commerce Act, a copy of that authority pertaining to this state shall be filed with the application or registration. A copy of any additions or amendments to the authority shall be filed with the commission.

(2) If the operation does not require authority from the Interstate Commerce Commission under the Interstate Commerce Act, an affidavit of that exempt status shall be filed with the application for registration.

(b) The commission shall grant registration upon the filing of the application and the payment of the fee as required by this article, subject to the highway carrier's compliance with this chapter.

3911. A fee of twenty-five dollars ($25) shall be paid to the commission for the filing of the initial registration and a fee of ten dollars ($10) shall be paid to the commission for filing any additions or amendments to an authority from the Interstate Commerce

Commission. These fees may be waived pursuant to any agreement or arrangement of the Reciprocity Commission made pursuant to Section 8000 of the Vehicle Code.

3912. Highway carriers engaged in interstate or foreign transportation of property or passengers for compensation by motor vehicle upon any public highway in this state who had registered their authority from the Interstate Commerce Commission with the commission pursuant to former Section 3810 are not required to file another initial application as prescribed in paragraph (1) of subdivision (a) of Section 3910.

Article 3. Insurance

3920. Registration shall not be granted to any carrier exempt from regulation by the Interstate Commerce Commission until there is filed with and accepted by the commission, in such form as it may prescribe, a currently effective certificate or certificates of insurance or a surety bond or bonds evidencing bodily injury, property damage, and cargo liability coverage not less than the minimum prescribed for owners and operators of for-hire vehicles regulated by the commission, or evidence of qualification of the carrier as a self-insurer as may be authorized by the commission under any applicable general orders of the commission.

Article 4. Agent to Receive Service of Process

3930. Registration shall not be granted to any carrier exempt from regulation by the Interstate Commerce Commission until there is filed with and accepted by the commission, in such form which it may prescribe, a currently effective designation of a local agent to receive service of process.

Article 5. Identification

3940. The commission shall prescribe or adopt suitable means of identification of the vehicles operated by highway carriers granted registration under this chapter.

3941. If any highway carrier of property or passengers granted registration under this chapter also engages in intrastate operation pursuant to authority issued by the commission, the carrier shall be subject to the requirements of Section 1033, 3543, or 5385, whichever is applicable, rather than the provisions of Section 3940.

Article 6. Fines and Penalties

3950. Any person or corporation who violates the provisions of this chapter is guilty of a misdemeanor, and is punishable as provided in Chapter 6 (commencing with Section 16560) of Division 7 of the Vehicle Code.

3951. The Department of Motor Vehicles and the Board of Equalization shall furnish information from their records to assist the Public Utilities Commission and the Department of the California Highway Patrol in the effective enforcement of this chapter.

SEC. 3. Section 5378 of the Public Utilities Code is amended to read:

5378. (a) The commission may cancel, revoke, or suspend any operating permit or certificate issued pursuant to this chapter upon any of the following grounds:

(1) The violation of any of the provisions of this chapter, or of any operating permit or certificate issued thereunder.

(2) The violation of any order, decision, rule, regulation, direction, demand, or requirement established by the commission pursuant to this chapter.

(3) The conviction of the charter-party carrier of passengers of any misdemeanor under this chapter.

(4) The rendition of a judgment against the charter-party carrier of passengers for any penalty imposed under this chapter.

(5) The failure of a charter-party carrier of passengers to pay any fee imposed upon the carrier within the time required by law.

(6) On request of the holder of the permit or certificate.

(7) Failure of a permit or certificate holder to operate and perform reasonable service.

(b) The commission may levy a civil penalty of up to five thousand dollars ($5,000) upon the holder of an operating permit or certificate issued pursuant to this chapter, for any of the grounds specifed in subdivision (a), as an alternative to canceling, revoking or suspending the permit or certificate. The commission may also levy interest upon the civil penalty, which shall be calculated as of the date on which the civil penalty is unpaid and delinquent. The commission shall deposit at least monthly all civil penalties and interest collected pursuant to this section into the General Fund.

SEC. 4. Section 5384 of the Public Utilities Code is amended to read:

5384. The commission shall issue permits to persons, who are otherwise qualified, whose passenger carrier operations fall into the following categories:

(a) Specialized carriers, who do not hold themselves out to serve the general public, but only provide service under contract with industrial and business firms, governmental agencies and private schools or who only transport agricultural workers to and from farms for compensation or who only conduct transportation services, which are incidental to another business. The permits shall be limited to a 50-mile radius of operation from the home terminal.

(b) Carriers using only vehicles under 15-passenger seating capacity and under 25 feet in length.

SEC. 5. Section 16500.5 of the Vehicle Code is amended to read:

16500.5. (a) Except as specified in subdivision (b), the owner of the following commercial vehicles shall maintain ability to respond

in damages in the amount required by the director:

(1) A vehicle used to carry passengers for hire, except taxicabs as defined in subdivision (c) of Section 27908.

(2) A vehicle having an unladen weight of over 7,000 pounds which is used in the transportation of property in the conduct of a business.

(b) Subdivision (a) does not apply to the following vehicles:

(1) A schoolbus.

(2) A motor vehicle used by a farmer exclusively in the transportation of his livestock, implements of husbandry, and agricultural commodities or in the transportation of supplies to his farm.

(3) A motor vehicle used by a resident farmer of this state to occasionally transport from the place of production to a warehouse, regular market, place of storage, or place of shipment the farm products of neighboring farmers in exchange for like services, farm products, or other compensation.

(4) A vehicle used in for-hire transportation which is subject to regulation by the Public Utilities Commission.

(5) A rented vehicle used for noncommercial transportation of property.

(c) The director shall establish the amounts which are determined adequate to cover damages resulting from the ownership or operation of a commercial vehicle or vehicles subject to this section arising by reason of personal injury to, or death of, any person or damage to property, or both. The director shall establish the amounts at levels equal to those prescribed by the Public Utilities Commission for owners and operators of for-hire vehicles subject to its jurisdiction and control.

(d) Ability to respond in damages may be maintained by any of the following:

(1) Being insured under one or more motor vehicle liability policies against such liability.

(2) Obtaining a bond of the same kind, and containing the same provisions, as those bonds specified in Section 16434.

(3) By depositing with the department five hundred thousand dollars ($500,000), which amount shall be deposited in a special deposit account with the Controller for the purpose of this section.

(4) Qualifying as a self-insurer under Section 16053.

(e) The department shall return the deposit made pursuant to paragraph (3) of subdivision (d) to the person entitled thereto when the owner is no longer required to maintain ability to respond in damages as required by this section or upon the owner's death.

(f) An insurer, agent, or broker who has been incorrectly informed by an owner of a vehicle or his representative that the vehicle is 7,000 pounds or less unladen weight, or is incorrectly informed by the owner or his representative that the vehicle is exempt from the requirements of subdivisions (a) and (c) pursuant to the exemptions set forth in subdivision (b), may issue a policy of

motor vehicle liability insurance in any amount less than that required by the director but not less than the amounts required under Section 16451. The policy of motor vehicle liability insurance when issued shall not be deemed to provide liability coverage amounts greater than that specifically set forth in the policy notwithstanding that the vehicle weighs in excess of 7,000 pounds unladen weight or is subsequently used in a manner which would have required the vehicle to be insured in the amounts established by the director pursuant to subdivision (c).

SEC. 6. Section 16560 of the Vehicle Code is amended to read:

16560. Any person or corporation who operates or causes to be operated on the highways of this state any motor vehicle in the transportation of property or passengers for compensation in interstate commerce without having first complied with the requirements of Chapter 2 (commencing with Section 3901) of Division 2 of the Public Utilities Code is guilty of a misdemeanor, and is punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in the county jail for not more than three months, or both.

SEC. 7. Section 34507 of the Vehicle Code is amended to read:

34507. To assist the department in enforcing the provisions of this division, every vehicle which is subject to this division and to the jurisdiction, control, and regulation of the Public Utilities Commission or the Interstate Commerce Commission shall have displayed prominently a distinctive identifying symbol as provided for in the Public Utilities Code.

SEC. 8. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1716

An act to amend Section 1206 of the Health and Safety Code, relating to rural health services.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984]

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

SECTION 1. Section 1206 of the Health and Safety Code is amended to read:

1206. The provisions of this chapter do not apply to the following:

(a) Except with respect to the option provided with regard to surgical clinics in paragraph (1) of subdivision (b) of Section 1204 and, further, with respect to specialty clinics specified in paragraph (2) of subdivision (b) of Section 1204, any place or establishment owned or leased and operated as a clinic or office by one or more licensed health care practitioners and used as an office for the practice of their profession, within the scope of their license, regardless of the name used publicly to identify the place or establishment.

(b) Any clinic directly conducted, maintained or operated by the United States or by any of its departments, officers, or agencies, and any primary care clinic specified in subdivision (a) of Section 1204 which is directly conducted, maintained, or operated by this state or by any of its political subdivisions or districts, or by any city. Nothing in this subdivision precludes the state department from adopting regulations which utilize clinic licensing standards as eligibility criteria for participation in programs funded wholly or partially under Title XVIII or XIX of the federal Social Security Act.

(c) Any clinic conducted, maintained, or operated by a federally recognized Indian tribe or tribal organization, as defined in Section 450 or 1601 of Title 25 of the United States Code, and which is located on land recognized as tribal land by the federal government.

(d) Clinics conducted, operated, or maintained as outpatient departments of hospitals.

(e) Any facility licensed as a health facility under Chapter 2 (commencing with Section 1250).

(f) Any freestanding clinical or pathological laboratory licensed under Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code.

(g) A clinic operated by, or affiliated with, any institution of learning which teaches a recognized healing art and is approved by the state board or commission vested with responsibility for regulation of the practice of that healing art.

(h) A clinic which is operated on an intermittent basis by a local health department or by a community or free clinic. An intermittent or satellite clinic shall, however, meet all requirements of law, including administrative regulations, pertaining to fire and life safety.

(i) The offices of physicians in group practice who provide a preponderance of their services to members of a comprehensive group practice prepayment health care service plan subject to Chapter 2.2 (commencing with Section 1340) of Division 2.

(j) Student health centers operated by public institutions of higher education.

(k) Nonprofit speech and hearing centers, as defined in Section 1201.5. Any nonprofit speech and hearing clinic desiring an exemption under this subdivision shall make application therefor to the State Director of Health Services, who shall grant the exception to any facility meeting the criteria of Section 1201.5. Notwithstanding

the licensure exemption contained in this subdivision, a nonprofit speech and hearing center shall be deemed to be an organized outpatient clinic for purposes of qualifying for reimbursement as a rehabilitation center under the Medi-Cal Act, Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(*l*) A clinic operated by a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, as amended, or a statutory successor thereof, which conducts medical research and health education and provides health care to its patients through a group of 40 or more physicians and surgeons, who are independent contractors representing not less than 10 board-certified specialties, and not less than two-thirds of whom practice on a full-time basis at the clinic.

(m) Any clinic, limited to in vivo diagnostic services by magnetic resonance imaging functions or radiological services under the direct and immediate supervision of a physician and surgeon who is licensed to practice in California. This shall not be construed to permit cardiac catheterization or any treatment modality in these clinics.

CHAPTER 1717

An act to add Section 56741 to, and to add Article 3.5 (commencing with Section 42625) to Chapter 9 of Part 24 of, the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. It is the intent of the Legislature in enacting Section 3 of this act to collect the necessary data to determine the feasibility of transferring the costs of providing residential and noneducational services pursuant to the individualized education program of a pupil enrolled in a nonpublic, nonsectarian school to the public agencies which share the responsibility of providing those services.

SEC. 2. Article 3.5 (commencing with Section 42625) is added to Chapter 9 of Part 24 of the Education Code, to read:

Article 3.5. Temporary Transfer—Delano Joint Union High School District

42625. (a) The governing board of the Delano Joint Union High School District may direct that moneys held in any fund or account

be temporarily transferred from one or more accounts or funds to another fund of the district to be used for the payment of obligations of the district. Notwithstanding Section 42603, such a transfer may be made as many times as necessary within the 1984–85 fiscal year from the same fund or account, but only when the district will receive income sufficient to repay the amount transferred. The amount transferred shall be repaid either in the 1984–85 or 1985–86 fiscal year if the transfer takes place within the final 120 calendar days of the 1984–85 fiscal year.

(b) Notwithstanding Section 42603, the governing board of the Delano Joint Union High School District may transfer 100 percent of the maximum of moneys held in any fund or account during the 1984–85 fiscal year pursuant to subdivision (a).

(c) For purposes of this section, the following terms have the following meanings:

(1) "Funds" includes, but is not limited to, the district deferred maintenance fund established pursuant to Section 39618.

(2) "Moneys" means all cash and accounts receivable which are due the district, including, but not limited to, secured notes.

42626. (a) Notwithstanding and in lieu of Section 42620, on or before April 1, 1985, the governing board of the Delano Joint Union High School District may request a temporary transfer of funds from the county treasury, not to exceed 45 percent of the estimated annual property tax entitlement of the district.

(b) In April of 1985, the auditor and the treasurer shall retransfer the funds to the county treasury from the first moneys available to the district from local property tax receipts, and before any other obligations of the district accruing in April, May, or June of 1985 are satisfied or paid.

42627. The temporary transfer of funds authorized by this article shall be limited to the 1984–85 fiscal year.

42628. (a) The governing board of the Delano Joint Union High School District shall include within its annual audit report to the State Department of Education a description of the procedures used in the reconciliation of funds and accounts authorized by this article.

(b) The State Department of Education shall, upon receipt of the annual audit report described in subdivision (a), transmit a copy of the report to the respective fiscal committees of the Legislature.

SEC. 3. Section 56741 is added to the Education Code, to read:

56741. (a) As a condition to receiving an apportionment pursuant to Section 56740, together with the December pupil count of individuals with exceptional needs required pursuant to federal law, and the April pupil count required pursuant to Section 56728.5, a district or county office shall submit a report to the superintendent, on forms provided by the superintendent for that purpose, which shall include all of the following information:

(1) The individual contracted program placement costs of providing special education, transportation, residential, and designated instructional services to individuals with exceptional

needs placed in nonpublic, nonsectarian schools pursuant to Sections 56365 and 56366.

(2) The individual program placement costs specified in paragraph (1) shall be listed according to the placement categories of individuals with exceptional needs, including, but not limited to, all of the following categories:

(A) Full-day placement.

(B) Partial day placement.

(C) Residential placement within the state.

(D) Residential placement outside the state.

(b) Beginning September 15, 1985, the superintendent shall prepare a report of the data collected pursuant to subdivision (a) by September 15 of each year.

SEC. 4. Due to the unique circumstances affecting the Delano Joint Union High School District, the Legislature hereby finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

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

SEC. 6. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow the Delano Joint Union High School District to meet its obligations for the 1984–85 fiscal year, and in order to obtain the data necessary to effectuate the intent of the Legislature declared in Section 1 of this act at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1718

An act to amend Section 11172 of, and to add Section 11166.5 to, the Penal Code, relating to child abuse reporting.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 11166.5 is added to the Penal Code, to read:

11166.5. Any person who enters into employment on and after January 1, 1985, as a child care custodian, medical practitioner, or nonmedical practitioner, or with a child protective agency, prior to commencing his or her employment, and as a prerequisite to that employment, shall sign a statement on a form provided to him or her by his or her employer to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with its provisions.

The statement shall include the following provisions:

Section 11166 of the Penal Code requires any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of a child abuse to report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and to prepare and send a written report thereof within 36 hours of receiving the information concerning the incident.

"Child care custodian" includes teachers, administrative officers, supervisors of child welfare and attendance, or certificated pupil personnel employees of any public or private school; administrators of a public or private day camp; licensed day care workers; administrators of community care facilities licensed to care for children; headstart teachers; licensing workers or licensing evaluators; public assistance workers; employees of a child care institution including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities; and social workers or probation officers.

"Medical practitioner" includes physicians and surgeons, psychiatrists, psychologists, dentists, residents, interns, podiatrists, chiropractors, licensed nurses, dental hygienists, or any other person who is licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.

"Nonmedical practitioner" includes state or county public health employees who treat minors for venereal disease or any other condition; coroners; paramedics; marriage, family or child counselors; and religious practitioners who diagnose, examine, or treat children.

The signed statements shall be retained by the employer. The cost of printing, distribution, and filing of these statements shall be borne by the employer.

SEC. 2. Section 11172 of the Penal Code is amended to read:

11172. (a) No child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who reports a known or suspected instance of child abuse shall be civilly or criminally liable for any report required or authorized by

this article. Any other person reporting a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of any report authorized by this article unless it can be proven that a false report was made and the person knew that the report was false. No person required to make a report pursuant to this article, nor any person taking photographs at his or her direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse, or causing photographs to be taken of a suspected victim of child abuse, without parental consent, or for disseminating the photographs with the reports required by this article. However, the provisions of this section shall not be construed to grant immunity from this liability with respect to any other use of the photographs.

(b) Any person who fails to report an instance of child abuse which he or she knows to exist or reasonably should know to exist, as required by this article, is guilty of a misdemeanor and is punishable by confinement in the county jail for a term not to exceed six months or by a fine of not more than five hundred dollars ($500) or by both.

(c) Any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who, pursuant to a request from a child protective agency, provides the requesting agency with access to the victim of a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of providing such access.

SEC. 3. Section 11172 of the Penal Code is amended to read:

11172. (a) No child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who reports a known or suspected instance of child abuse shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of any report authorized by this article unless it can be proven that a false report was made and the person knew that the report was false. No person required to make a report pursuant to this article, nor any person taking photographs at his or her direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse, or causing photographs to be taken of a suspected victim of child abuse, without parental consent, or for disseminating the photographs with the reports required by this article. However, the provisions of this section shall not be construed to grant immunity from this liability with respect to any other use of the photographs.

(b) Any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who, pursuant to a request from a child protective agency, provides the requesting agency with access to the victim of a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of providing that access.

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

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

(d) Any person who fails to report an instance of child abuse which he or she knows to exist or reasonably should know to exist, as required by this article, is guilty of a misdemeanor and is punishable by confinement in the county jail for a term not to exceed six months or by a fine of not more than one thousand dollars ($1,000) or by both.

SEC. 4. Section 3 of this bill incorporates amendments to Section 11172 of the Penal Code proposed by both this bill and AB 2702. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 11172 of the Penal Code, and (3) this bill is enacted after AB 2702, in which case Section 2 of this bill shall not become operative.

SEC. 5. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

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

Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1719

An act to amend Section 86 of the Code of Civil Procedure relating to judicial arbitration.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 86 of the Code of Civil Procedure is amended to read:

86. (a) Each municipal and justice court has original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to fifteen thousand dollars ($15,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except the courts have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership do not exceed fifteen thousand dollars ($15,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed fifteen thousand dollars ($15,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding fifteen thousand dollars ($15,000) or property of a value not exceeding fifteen thousand dollars ($15,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer:

(A) In actions to recover possession of real property where rent is charged, and the amount of the last rental charged is one thousand dollars ($1,000) per month or less, and the whole amount of damages claimed is fifteen thousand dollars ($15,000) or less.

(B) In all other actions to recover possession of real property where the rental value is one thousand dollars ($1,000) per month or less, and the whole amount claimed is fifteen thousand dollars ($15,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of the liens is fifteen thousand dollars

($15,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under the provisions of Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code where the amount of the liens is fifteen thousand dollars ($15,000) or less. However, where an action to enforce the lien is pending in a municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of the liens sought to be foreclosed against the same property by action or actions in a municipal or justice court aggregates an amount in excess of fifteen thousand dollars ($15,000) the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order the action or actions pending therein transferred to the proper superior court. Upon the making of the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought by way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver and to make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments); to determine title to personal property seized in an action pending in such court.

(9) In all actions under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding fifteen thousand dollars ($15,000) or the debt denied does not exceed fifteen thousand dollars ($15,000).

(10) In all arbitration-related petitions filed pursuant to Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3, if the petition is based upon the subject matter of a pending action properly filed in the municipal court.

(b) Each municipal and justice court has jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than fifteen thousand dollars ($15,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of such municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to this section at the 1977–78 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time such changes become operative.

SEC. 1.1. Section 86 of the Code of Civil Procedure is amended to read:

86. (a) Each municipal and justice court has original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to fifteen thousand dollars ($15,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except the courts have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership do not exceed fifteen thousand dollars ($15,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed fifteen thousand dollars ($15,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding fifteen thousand dollars ($15,000) or property of a value not exceeding fifteen thousand dollars ($15,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer:

(A) In actions to recover possession of real property where rent is charged, and the amount of the last rental charged is one thousand dollars ($1,000) per month or less, and the whole amount of damages claimed is fifteen thousand dollars ($15,000) or less.

(B) In all other actions to recover possession of real property where the rental value is one thousand dollars ($1,000) per month or less, and the whole amount claimed is fifteen thousand dollars ($15,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of the liens is fifteen thousand dollars ($15,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under the provisions of Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code, or to enforce and foreclose an assessment lien on a condominium created pursuant to Section 1356 of the Civil Code, where the

amount of the liens is fifteen thousand dollars ($15,000) or less. However, where an action to enforce the lien is pending in a municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of the liens sought to be foreclosed against the same property by action or actions in a municipal or justice court aggregates an amount in excess of fifteen thousand dollars ($15,000) the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order the action or actions pending therein transferred to the proper superior court. Upon the making of the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought by way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver and to make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments); to determine title to personal property seized in an action pending in such court.

(9) In all actions under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding fifteen thousand dollars ($15,000) or the debt denied does not exceed fifteen thousand dollars ($15,000).

(10) In all arbitration-related petitions filed pursuant to Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3, if the petition is based upon the subject matter of a pending action properly filed in the municipal court.

(b) Each municipal and justice court has jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than fifteen thousand dollars ($15,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of such municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to this section at the 1977–78 Regular Session of the Legislature shall not

constitute a basis for the transfer to another court of any case pending at the time such changes become operative.

SEC. 1.2. Section 86 of the Code of Civil Procedure is amended to read:

86. (a) Each municipal and justice court has original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to fifteen thousand dollars ($15,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except the courts have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership do not exceed fifteen thousand dollars ($15,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed fifteen thousand dollars ($15,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding fifteen thousand dollars ($15,000) or property of a value not exceeding fifteen thousand dollars ($15,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer:

(A) In actions to recover possession of real property where rent is charged, and the amount of the last rental charged is one thousand dollars ($1,000) per month or less, and the whole amount of damages claimed is fifteen thousand dollars ($15,000) or less.

(B) In all other actions to recover possession of real property where the rental value is one thousand dollars ($1,000) per month or less, and the whole amount claimed is fifteen thousand dollars ($15,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of the liens is fifteen thousand dollars ($15,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under the provisions of Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code where the amount of the liens is fifteen thousand dollars ($15,000) or less. However, where an action to enforce the lien is pending in a municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of the liens sought to be foreclosed against the same property by action or actions in a municipal or justice court aggregates an amount in excess of fifteen thousand dollars ($15,000),

the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order the action or actions pending therein transferred to the proper superior court. Upon the making of the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought by way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver and to make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments); to determine title to personal property seized in an action pending in the court.

(9) In all actions under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding fifteen thousand dollars ($15,000) or the debt denied does not exceed fifteen thousand dollars ($15,000).

(10) In actions to enforce the Long-Term Care, Health, Safety, and Security Act of 1973 (Chapter 2.4 (commencing with Section 1417) of Division 2 of the Health and Safety Code) where civil penalties are not sought or amount to fifteen thousand dollars ($15,000) or less. Actions in which a civil penalty of more than fifteen thousand dollars ($15,000) is sought shall be transferred to the superior court and may be consolidated with any other action pending in the court, on the motion of either party.

(11) In all arbitration-related petitions filed pursuant to Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3, if the petition is based upon the subject matter of a pending action properly filed in the municipal court.

(b) Each municipal and justice court has jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than fifteen thousand dollars ($15,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of such municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to

this section at the 1977–78 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time such changes become operative.

SEC. 1.3. Section 86 of the Code of Civil Procedure is amended to read:

86. (a) Each municipal and justice court has original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to fifteen thousand dollars ($15,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except the courts have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership do not exceed fifteen thousand dollars ($15,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed fifteen thousand dollars ($15,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding fifteen thousand dollars ($15,000) or property of a value not exceeding fifteen thousand dollars ($15,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer:

(A) In actions to recover possession of real property where rent is charged, and the amount of the last rental charged is one thousand dollars ($1,000) per month or less, and the whole amount of damages claimed is fifteen thousand dollars ($15,000) or less.

(B) In all other actions to recover possession of real property where the rental value is one thousand dollars ($1,000) per month or less, and the whole amount claimed is fifteen thousand dollars ($15,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of the liens is fifteen thousand dollars ($15,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code where the amount of the liens is fifteen thousand dollars ($15,000) or less. However, where an action to enforce the lien is pending in a municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of the liens sought to be foreclosed against the same property by action or actions in a municipal or justice court aggregates an amount in excess

of fifteen thousand dollars ($15,000) the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order the action or actions pending therein transferred to the proper superior court. Upon the making of the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought by way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver and to make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments); to determine title to personal property seized in an action pending in the court.

(9) In all actions under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding fifteen thousand dollars ($15,000) or the debt denied does not exceed fifteen thousand dollars ($15,000).

(10) In all arbitration-related petitions filed pursuant to Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3, if the petition is based upon the subject matter of a pending action properly filed in the municipal court.

(11) In actions to enforce the Long-Term Care, Health, Safety, and Security Act of 1973 (Chapter 2.4 (commencing with Section 1417) of Division 2 of the Health and Safety Code) where civil penalties are not sought or amount to fifteen thousand dollars ($15,000) or less. Actions in which a civil penalty of more than fifteen thousand dollars ($15,000) is sought shall be transferred to the superior court and may be consolidated with any other action pending in the court, on the motion of either party.

(b) Each municipal and justice court has jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than fifteen thousand dollars ($15,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of the municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to

this section at the 1977–78 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time these changes become operative.

SEC. 1.4. Section 86 of the Code of Civil Procedure is amended to read:

86. (a) Each municipal and justice court has original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to fifteen thousand dollars ($15,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except the courts have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership do not exceed fifteen thousand dollars ($15,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed fifteen thousand dollars ($15,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding fifteen thousand dollars ($15,000) or property of a value not exceeding fifteen thousand dollars ($15,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer:

(A) In actions to recover possession of real property where rent is charged, and the amount of the last rental charged is one thousand dollars ($1,000) per month or less, and the whole amount of damages claimed is fifteen thousand dollars ($15,000) or less.

(B) In all other actions to recover possession of real property where the rental value is one thousand dollars ($1,000) per month or less, and the whole amount claimed is fifteen thousand dollars ($15,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of the liens is fifteen thousand dollars ($15,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under the provisions of Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code, or to enforce and foreclose an assessment lien on a condominium created pursuant to Section 1356 of the Civil Code, where the amount of the liens is fifteen thousand dollars ($15,000) or less. However, where an action to enforce the lien is pending in a municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total

amount of the liens sought to be foreclosed against the same property by action or actions in a municipal or justice court aggregates an amount in excess of fifteen thousand dollars ($15,000), the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order the action or actions pending therein transferred to the proper superior court. Upon the making of the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought by way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver and to make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments); to determine title to personal property seized in an action pending in the court.

(9) In all actions under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding fifteen thousand dollars ($15,000) or the debt denied does not exceed fifteen thousand dollars ($15,000).

(10) In all arbitration-related petitions filed pursuant to Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3, if the petition is based upon the subject matter of a pending action properly filed in the municipal court.

(11) In actions to enforce the Long-Term Care, Health, Safety, and Security Act of 1973 (Chapter 2.4 (commencing with Section 1417) of Division 2 of the Health and Safety Code) where civil penalties are not sought or amount to fifteen thousand dollars ($15,000) or less. Actions in which a civil penalty of more than fifteen thousand dollars ($15,000) is sought shall be transferred to the superior court and may be consolidated with any other action pending in the court, on the motion of either party.

(b) Each municipal and justice court has jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than fifteen thousand dollars ($15,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of such municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court

may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to this section at the 1977–78 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time such changes become operative.

SEC. 1.5. Section 86 of the Code of Civil Procedure is amended to read:

86. (a) Each municipal and justice court has original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to fifteen thousand dollars ($15,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except the courts have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership do not exceed fifteen thousand dollars ($15,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed fifteen thousand dollars ($15,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding fifteen thousand dollars ($15,000) or property of a value not exceeding fifteen thousand dollars ($15,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer:

(A) In actions to recover possession of real property where rent is charged, and the amount of the last rental charged is one thousand dollars ($1,000) per month or less, and the whole amount of damages claimed is fifteen thousand dollars ($15,000) or less.

(B) In all other actions to recover possession of real property where the rental value is one thousand dollars ($1,000) per month or less, and the whole amount claimed is fifteen thousand dollars ($15,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of the liens is fifteen thousand dollars ($15,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code, or to enforce and foreclose an assessment lien on a condominium created pursuant to Section 1356 of the Civil Code, where the amount of the liens is fifteen thousand dollars ($15,000) or less. However, where an action

to enforce the lien is pending in a municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of the liens sought to be foreclosed against the same property by action or actions in a municipal or justice court aggregates an amount in excess of fifteen thousand dollars ($15,000) the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order the action or actions pending therein transferred to the proper superior court. Upon the making of the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial

(7) In actions for declaratory relief when brought by way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver and to make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments); to determine title to personal property seized in an action pending in the court.

(9) In all actions under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding fifteen thousand dollars ($15,000) or the debt denied does not exceed fifteen thousand dollars ($15,000).

(10) In all arbitration-related petitions filed pursuant to Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3, if the petition is based upon the subject matter of a pending action properly filed in the municipal court.

(11) In actions to enforce the Long-Term Care, Health, Safety, and Security Act of 1973 (Chapter 2.4 (commencing with Section 1417) of Division 2 of the Health and Safety Code) where civil penalties are not sought or amount to fifteen thousand dollars ($15,000) or less. Actions in which a civil penalty of more than fifteen thousand dollars ($15,000) is sought shall be transferred to the superior court and may be consolidated with any other action pending in the court, on the motion of either party.

(b) Each municipal and justice court has jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than fifteen thousand dollars ($15,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of the municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or

excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to this section at the 1977–78 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time those changes become operative.

SEC. 1.6. Section 86 of the Code of Civil Procedure is amended to read:

86. (a) Each municipal and justice court has original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to fifteen thousand dollars ($15,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except the courts have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership do not exceed fifteen thousand dollars ($15,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed fifteen thousand dollars ($15,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding fifteen thousand dollars ($15,000) or property of a value not exceeding fifteen thousand dollars ($15,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer:

(A) In actions to recover possession of real property where rent is charged, and the amount of the last rental charged is one thousand dollars ($1,000) per month or less, and the whole amount of damages claimed is fifteen thousand dollars ($15,000) or less.

(B) In all other actions to recover possession of real property where the rental value is one thousand dollars ($1,000) per month or less, and the whole amount claimed is fifteen thousand dollars ($15,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of the liens is fifteen thousand dollars ($15,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code where the amount of the liens is fifteen thousand dollars ($15,000) or less. However,

where an action to enforce the lien is pending in a municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of the liens sought to be foreclosed against the same property by action or actions in a municipal or justice court aggregates an amount in excess of fifteen thousand dollars ($15,000), the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order the action or actions pending therein transferred to the proper superior court. Upon the making of the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought by way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver and to make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments); to determine title to personal property seized in an action pending in the court.

(9) In all actions under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding fifteen thousand dollars ($15,000) or the debt denied does not exceed fifteen thousand dollars ($15,000).

(10) In all arbitration-related petitions filed pursuant to Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3, if the petition is based upon the subject matter of a pending action properly filed in the municipal court.

(11) In actions to enforce the Long-Term Care, Health, Safety, and Security Act of 1973 (Chapter 2.4 (commencing with Section 1417) of Division 2 of the Health and Safety Code) where civil penalties are not sought or amount to fifteen thousand dollars ($15,000) or less. Actions in which a civil penalty of more than fifteen thousand dollars ($15,000) is sought shall be transferred to the superior court and may be consolidated with any other action pending in the court, on the motion of either party.

(b) Each municipal and justice court has jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than fifteen thousand dollars ($15,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of the municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or

excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to this section at the 1977–78 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time those changes become operative.

SEC. 1.7. Section 86 of the Code of Civil Procedure is amended to read:

86. (a) Each municipal and justice court has original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to fifteen thousand dollars ($15,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except the courts have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership do not exceed fifteen thousand dollars ($15,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed fifteen thousand dollars ($15,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding fifteen thousand dollars ($15,000) or property of a value not exceeding fifteen thousand dollars ($15,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer:

(A) In actions to recover possession of real property where rent is charged, and the amount of the last rental charged is one thousand dollars ($1,000) per month or less, and the whole amount of damages claimed is fifteen thousand dollars ($15,000) or less.

(B) In all other actions to recover possession of real property where the rental value is one thousand dollars ($1,000) per month or less, and the whole amount claimed is fifteen thousand dollars ($15,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of the liens is fifteen thousand dollars ($15,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code, or to enforce and foreclose an assessment lien on a condominium created pursuant to

Section 1356 of the Civil Code, where the amount of the liens is fifteen thousand dollars ($15,000) or less. However, where an action to enforce the lien is pending in a municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of the liens sought to be foreclosed against the same property by action or actions in a municipal or justice court aggregates an amount in excess of fifteen thousand dollars ($15,000), the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order the action or actions pending therein transferred to the proper superior court. Upon the making of the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought by way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver and to make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments); to determine title to personal property seized in an action pending in the court.

(9) In all actions under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding fifteen thousand dollars ($15,000) or the debt denied does not exceed fifteen thousand dollars ($15,000).

(10) In all arbitration-related petitions filed pursuant to Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3, if the petition is based upon the subject matter of a pending action properly filed in the municipal court.

(11) In actions to enforce the Long-Term Care, Health, Safety, and Security Act of 1973 (Chapter 2.4 (commencing with Section 1417) of Division 2 of the Health and Safety Code) where civil penalties are not sought or amount to fifteen thousand dollars ($15,000) or less. Actions in which a civil penalty of more than fifteen thousand dollars ($15,000) is sought shall be transferred to the superior court and may be consolidated with any other action pending in the court, on the motion of either party.

(b) Each municipal and justice court has jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than fifteen thousand dollars ($15,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of the municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to this section at the 1977–78 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time those changes become operative.

SEC. 2. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

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

SEC. 4. (a) Section 1.1 of this bill incorporates amendments to Section 86 of the Code of Civil Procedure proposed by both this bill and AB 2295. It shall only become operative if (1) both bills are enacted and become effective January 1, 1985, (2) each bill amends Section 86 of the Code of Civil Procedure, and (3) AB 2260 and SB 1344 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 2295, in which case Sections 1, 1.2, 1.3, 1.4, 1.5, 1.6, and 1.7 of this bill shall not become operative.

(b) Section 1.2 of this bill incorporates amendments to Section 86 of the Code of Civil Procedure proposed by both this bill and AB 2260. It shall only become operative if (1) both bills are enacted and become effective January 1, 1985, (2) each bill amends Section 86 of the Code of Civil Procedure, (3) AB 2295 and SB 1344 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 2260 in which case Sections 1, 1.1, 1.3, 1.4, 1.5, 1.6, and 1.7 of this bill shall not become operative.

(c) Section 1.3 of this bill incorporates amendments to Section 86 of the Code of Civil Procedure proposed by both this bill and SB 1344. It shall only become operative if (1) both bills are enacted and become effective January 1, 1985, (2) each bill amends Section 86 of the Code of Civil Procedure, and (3) AB 2295 and AB 2260 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after SB 1344, in which case Sections 1, 1.1, 1.2, 1.4, 1.5, 1.6, and 1.7 of this bill shall not become operative.

(d) Section 1.4 of this bill incorporates amendments to Section 86 of the Code of Civil Procedure proposed by both this bill, AB 2295, and AB 2260. It shall only become operative if (1) all three bills are

enacted and become effective January 1, 1985, (2) each bill amends Section 86 of the Code of Civil Procedure, (3) SB 1344 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2295 and AB 2260 in which case Sections 1, 1.1, 1.2, 1.3, 1.5, 1.6, and 1.7 of this bill shall not become operative.

(e) Section 1.5 of this bill incorporates amendments to Section 86 of the Code of Civil Procedure proposed by both this bill and AB 2295 and SB 1344. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1985, (2) each bill amends Section 86 of the Code of Civil Procedure, and (3) AB 2260 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2295 and SB 1344, in which case Sections 1, 1.1, 1.2, 1.3, 1.4, 1.6, and 1.7 of this bill shall not become operative.

(f) Section 1.6 of this bill incorporates amendments to Section 86 of the Code of Civil Procedure proposed by both this bill and AB 2260 and SB 1344. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1985, (2) each bill amends Section 86 of the Code of Civil Procedure, (3) AB 2295 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2260 and SB 1344 in which case Sections 1, 1.1, 1.2, 1.4, 1.5, and 1.7 of this bill shall not become operative.

(g) Section 1.7 of this bill incorporates amendments to Section 86 of the Code of Civil Procedure proposed by this bill, AB 2295, AB 2260, and SB 1344. It shall only become operative if (1) all four bills are enacted and become effective January 1, 1985, (2) all four bills amend Section 86 of the Code of Civil Procedure, (3) this bill is enacted after AB 2295, AB 2260, and SB 1344, in which case Sections 1, 1.1, 1.2, 1.3, 1.4, 1.5, and 1.6 of this bill shall not become operative.

CHAPTER 1720

An act to amend Section 903.4 of, and to add Section 903.45 to, the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984]

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

SECTION 1. Section 903.4 of the Welfare and Institutions Code is amended to read:

903.4. (a) The Legislature finds that even though Section 903 establishes parental liability for the cost of the care, support, and maintenance of a child in a county institution or other place in which the child is placed, detained, or committed pursuant to an order of the juvenile court, the collection of child support for juveniles who have been placed in out-of-home care as dependents or wards of the juvenile court under Sections 300, 601, and 602 has not been pursued

routinely and effectively.

It is the purpose of this section to substantially increase income to the state and to counties through court-ordered parental reimbursement for the support of juveniles who are in out-of-home placement. In this regard, the Legislature finds that the costs of collection will be offset by the additional income derived from the increased effectiveness of the parental support program.

(b) In any case in which a child is or has been declared a dependent child or a ward of the court pursuant to a Section 300, 601, or 602, the juvenile court shall order any agency which has expended moneys or incurred costs on behalf of the child pursuant to a detention or placement order of the juvenile court, to submit to the district attorney, within 30 days, in the form of a declaration, a statement of its costs and expenses for the benefit, support, and maintenance of the child.

(c) (1) The district attorney may petition the superior court to issue an order to show cause why an order should not be entered for continuing support and reimbursement of the costs of the support of any minor described in Section 903.

Any order entered as a result of the order to show cause shall be enforceable in the same manner as any other support order entered by the courts of this state at the time it becomes due and payable.

In any case in which the district attorney has received a declaration of costs or expenses from any agency, the declaration shall be deemed an application for assistance pursuant to Section 11475.1.

(2) The order to show cause shall inform the parent of all of the following facts:

(A) He or she has been sued.

(B) If he or she wishes to seek the advice of an attorney in this matter, it should be done promptly so that his or her financial declaration and written response, if any, will be filed on time.

(C) He or she has a right to appear personally and present evidence in his or her behalf.

(D) His or her failure to appear at the order to show cause hearing, personally or through his or her attorney, may result in an order being entered against him or her for the relief requested in the petition.

(E) Any order entered could result in the garnishment of wages, taking of money or property to enforce the order, or being held in contempt of court.

(F) Any party has a right to request a modification of any order issued by the superior court in the event of a change in circumstances.

(3) Any existing support order shall remain in full force and effect unless the superior court modifies that order pursuant to subdivision (f).

(4) The district attorney shall not be required to petition the court for an order for continuing support and reimbursement if, in the

opinion of the district attorney, it would not be appropriate to secure such an order. The district attorney shall not be required to continue collection efforts for any order if, in the opinion of the district attorney, it would not be appropriate or cost effective to enforce the order.

(d) (1) In any case in which an order to show cause has been issued and served upon a parent for continuing support and reimbursement of costs, a completed income and expense declaration shall be filed with the court by the parent; a copy of it shall be delivered to the district attorney at least five days prior to the hearing on the order to show cause.

(2) Any person authorized by law to receive a parent's financial declaration or information obtained therefrom, who knowingly furnishes the declaration or information to a person not authorized by law to receive it, is guilty of a misdemeanor.

(e) If a parent has been personally served with the order to show cause and no appearance is made by the parent, or an attorney in his or her behalf, at the hearing on the order to show cause, the court may enter an order for the principal amount and continuing support in the amount demanded in the petition.

If the parent appears at the hearing on the order to show cause, the court may enter an order for the amount the court determines the parent is financially able to pay.

(f) The court shall have continuing jurisdiction to modify any order for continuing support entered pursuant to this section.

(g) As used in this section, "parent" includes any person specified in Section 903, the estate of any such person, and the estate of the minor person.

(h) The district attorney may contract with another county agency for the performance of any of the duties required by this section.

SEC. 2. Section 903.45 is added to the Welfare and Institutions Code, to read:

903.45. (a) The board of supervisors may designate a county officer to make financial evaluations of parental liability for reimbursement pursuant to Sections 903.1 and 903.2.

(b) In any county where a board of supervisors has designated a county officer pursuant to subdivision (a), the juvenile court shall, at the close of the disposition hearing, order any person liable for the cost of legal services as provided for in Section 903.1 or probation costs as provided for in Section 903.2 to appear before the designated county officer for a financial evaluation of his or her ability to pay those costs.

If the county officer determines that a person so responsible has the ability to pay all or part of the costs, the officer shall petition the court for an order requiring the person to pay that sum to the county. In evaluating a person's ability to pay under this section, the designated county officer and the court shall take into consideration the family's income, the necessary obligations of the family, and the

number of persons dependent upon this income. Any person appearing for a financial evaluation shall have the right to dispute the county officer's determination, in which case he or she shall be entitled to a hearing before the juvenile court. The county officer, at the time of the financial evaluation, shall advise such a person of his or her right to a hearing and of his or her rights pursuant to subdivision (c).

At the hearing, any person so responsible for costs shall be entitled to have, but shall not be limited to, the opportunity to be heard in person, to present witnesses and other documentary evidence, to confront and cross-examine adverse witnesses, to disclosure of the evidence against him or her, and to receive a written statement of the findings of the court. The person shall have the right to be represented by counsel, and, when the person is unable to afford counsel, the right to appointed counsel. If the court determines that the person has the ability to pay all or part of the costs, including the costs of any counsel appointed to represent the person at the hearing, the court shall set the amount to be reimbursed and order him or her to pay that sum to the county in a manner in which the court believes reasonable and compatible with the person's financial ability.

In the event such a person fails to appear for a financial evaluation, the county officer, upon petition to the court, shall be entitled to an order requiring the person immediately to pay all such costs for which he or she is responsible.

(c) At any time prior to the satisfaction of a judgment entered pursuant to this section, a person against whom the judgment was entered may petition the rendering court to modify or vacate the judgment on the basis of a change in circumstances relating to his or her ability to pay the judgment.

(d) Execution may be issued on a judgment entered pursuant to this section, including any balance remaining unpaid at the termination of the court's jurisdiction over the minor, in the same manner as on a judgment in a civil action.

CHAPTER 1721

An act to add Chapter 11 (commencing with Section 8850) to Division 1 of Title 2 of the Government Code, relating to small businesses.

[Approved by Governor September 30, 1984 Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Chapter 11 (commencing with Section 8850) is added to Division 1 of Title 2 of the Government Code, to read:

CHAPTER 11. CALIFORNIA SMALL BUSINESS OFFICE OF ADVOCACY

8850. (a) The Legislature finds and declares that it is in the public interest to aid, counsel, assist, and protect, insofar as is possible, the interests of small business concerns in order to preserve free competitive enterprise and maintain a healthy state economy.

(b) In order to advocate the causes of small business and to provide small businesses with the information they need to survive in marketplace, there is created in the Business, Transportation and Housing Agency a California Small Business Advocate.

8850.1. The following definitions apply to this chapter unless otherwise indicated:

(a) "Small business" means a small business, as defined by the Department of General Services.

(b) "Advocate" means the California Small Business Advocate.

8850.2. (a) The advocate shall be appointed by, and shall serve at the pleasure of, the Governor.

(b) To accomplish the purposes of this chapter, the Secretary of the Business, Transportation and Housing Agency may assign other employees from within the various departments of the agency, or request the assistance of other civil service and exempt positions in the various executive branch departments to assist the advocate for such periods of time as are necessary to enable the advocate to carry out his or her responsibilities.

8850.3. The duties and functions of the advocate shall include all of the following:

(a) Serve as the principal advocate in the state on behalf of small businesses, including, but not limited to, advisory participation in the consideration of all legislation and administrative regulations which affect small businesses.

(b) Represent the views and interests of small businesses before other state agencies whose policies and activities may affect small business.

(c) Enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by state government which are of benefit to small businesses, and information on how small businesses can participate in, or make use of, those programs and services.

(d) Evaluate the efforts of state agencies, businesses, and industry to assist minority small business enterprises, and make such recommendations as may be appropriate to assist the development and strengthening of minority and other small business enterprises.

(e) Consult with experts and authorities in the fields of small business investment, venture capital investment, and commercial banking and other comparable financial institutions involved in the financing of business, and with individuals with regulatory, legal, economic, or financial expertise, including members of the academic

community, and individuals who generally represent the public interest.

(f) Determine the desirability of developing a set of rational, objective criteria to be used to define small business, and to develop such criteria, if appropriate.

(g) Seek the assistance and cooperation of all state agencies and departments providing services to, or affecting, small business, to ensure coordination of state efforts.

(h) Receive and respond to complaints from small businesses concerning the actions of state agencies and the operative effects of state laws and regulations adversely affecting those businesses.

8850.4. Each agency of the state shall furnish to the advocate such reports, documents, and information as the director deems necessary to carry out his or her functions under this chapter.

8850.5. The advocate shall prepare and submit a written annual report to the Governor and to the Legislature, that describes the activities and recommendations of the office.

SEC. 2. It is the intent of the Legislature that the implementation of this chapter shall not result in any additional costs to state government, and that funding of this chapter shall be paid from existing appropriations.

CHAPTER 1722

An act to add and repeal Section 66475.4 of the Government Code, relating to subdivisions.

[Approved by Governor September 30, 1984 Filed with Secretary of State September 30, 1984]

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

SECTION 1. Section 66475.4 is added to the Government Code, to read:

66475.4. (a) As used in this section, "dedication" means a transfer by a subdivider to a city, county, or city and county of title to real property or any interest therein, or of an easement or right in real property, the transfer of facilities, or the installation of improvements as defined in Section 66419, or any combination thereof.

(b) A dedication requirement imposed as a condition of approval of a tentative map is invalid to the extent to which it is determined by a court to be excessive. A dedication requirement is excessive to the extent it is not reasonably necessary to meet public needs arising as a result of the subdivision. If, at the time of imposition of the dedication requirement, a city, county, or city and county provides a mechanism for determining the amount of compensation for that portion of the dedication requirement which is excessive, and the

manner of payment thereof, this section shall not apply.

(c) A dedication requirement claimed to be excessive in whole or in part, which is imposed as a condition of approval of a tentative map, may be reviewed by a writ of administrative mandate pursuant to Section 1094.5 of the Code of Civil Procedure. In such a proceeding, the petitioner must have protested in the administrative record the imposition of the dedication, or portion of the dedication, claimed to be excessive. The petition for the writ shall be filed within the time prescribed by Section 66499.37.

(d) If the dedication requirement is determined to be excessive, in whole or in part, the court shall order the city, county, or city and county which imposed the requirement to elect, within 45 days of the date of its order, to take one of the following actions:

(1) To require amendment of the tentative subdivision map or redesign of the subdivision, taking into account the court's decision and the requirements of Sections 66473.1, 66473.5, 66474, and 66474.6.

(2) To pay just compensation for that portion of the dedication determined to be excessive.

(3) To require amendment of the tentative subdivision map by deletion or modification of the dedication found to be excessive.

(e) If the city, county, or city and county elects to pay compensation, the amount of compensation shall be determined as provided by Chapters 8 (commencing with Section 1260.010) and 9 (commencing with Section 1263.010) of Title 7 of Part 3 of the Code of Civil Procedure.

(f) If the city, county, or city and county elects to require redesign of the map or to delete or modify the excessive dedication requirement, the court shall order the action to be taken within 120 days or such longer period of time as determined by the court upon application of either party. The court shall retain jurisdiction to ensure compliance with its order.

(g) If, within 45 days after the date of the court's order, the city, county, or city and county does not elect to take one of the actions specified in paragraph (1) or (3) of subdivision (d), it shall be conclusively presumed to have elected to pay just compensation.

(h) The provisions of this section do not apply to any mitigation measures imposed by local agencies pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) to mitigate adverse environmental impacts identified in an environmental document prepared for the project under that act.

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

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may

pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1723

An act to amend and repeal Section 65943 of the Government Code, relating to development projects.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 65943 of the Government Code is amended to read:

65943. (a) Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project. If the written determination is not made within 30 days after receipt of the application, the application shall be deemed complete for purposes of this chapter. Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application. If the application is determined not to be complete, the agency's determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the public agency in response to the list and description.

(b) Not later than 30 calendar days after receipt of the submitted materials, the public agency shall determine in writing whether they are complete and shall immediately transmit that determination to the applicant. If the written determination is not made within that 30-day period, the application together with the submitted materials shall be deemed complete for purposes of this chapter.

(c) If the application together with the submitted materials are determined not to be complete pursuant to subdivision (b), the public agency shall provide a process for the applicant to appeal that decision in writing to the governing body of the agency or, if there is no governing body, to the director of the agency, as provided by that agency. A city or county shall provide that the right of appeal is to the governing body or, at their option, the planning commission, or both.

There shall be a final written determination by the agency on the appeal not later than 60 calendar days after receipt of the applicant's

written appeal. The fact that an appeal is permitted to both the planning commission and to the governing body does not extend the 60-day period. Notwithstanding a decision pursuant to subdivision (b) that the application and submitted materials are not complete, if the final written determination on the appeal is not made within that 60-day period, the application with the submitted materials shall be deemed complete for the purposes of this chapter.

(d) Nothing in this section precludes an applicant and a public agency from mutually agreeing to an extension of any time limit provided by this section.

(e) This section shall become operative on July 1, 1985, and shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, pursuant to Section 9611 of the Government Code, Section 65943 of the Government Code, as amended by Section 11 of Chapter 1207 of the Statutes of 1979, shall have the same force and effect as if this temporary provision had not been enacted.

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

CHAPTER 1724

An act to add Title 5 (commencing with Section 3426) to Part 1 of Division 4 of the Civil Code and to add Section 2036.2 to the Code of Civil Procedure, relating to trade secrets.

[Approved by Governor September 30, 1984 Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Title 5 (commencing with Section 3426) is added to Part 1 of Division 4 of the Civil Code, to read:

TITLE 5. UNIFORM TRADE SECRETS ACT

3426. This title may be cited as the Uniform Trade Secrets Act.

3426.1. As used in this title, unless the context requires otherwise:

(a) "Improper means" includes theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy, or

espionage through electronic or other means. Reverse engineering or independent derivation alone shall not be considered improper means.

(b) "Misappropriation" means:

(1) Acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; or

(2) Disclosure or use of a trade secret of another without express or implied consent by a person who:

(A) Used improper means to acquire knowledge of the trade secret; or

(B) At the time of disclosure or use, knew or had reason to know that his or her knowledge of the trade secret was:

(i) Derived from or through a person who had utilized improper means to acquire it;

(ii) Acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use; or

(iii) Derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use; or

(C) Before a material change of his or her position, knew or had reason to know that it was a trade secret and that knowledge of it had been acquired by accident or mistake.

(c) "Person" means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(d) "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(1) Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and

(2) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

3426.2. (a) Actual or threatened misappropriation may be enjoined. Upon application to the court, an injunction shall be terminated when the trade secret has ceased to exist, but the injunction may be continued for an additional period of time in order to eliminate commercial advantage that otherwise would be derived from the misappropriation.

(b) If the court determines that it would be unreasonable to prohibit future use, an injunction may condition future use upon payment of a reasonable royalty for no longer than the period of time the use could have been prohibited.

(c) In appropriate circumstances, affirmative acts to protect a trade secret may be compelled by court order.

3426.3. (a) A complainant may recover damages for the actual loss caused by misappropriation. A complainant also may recover for the unjust enrichment caused by misappropriation that is not taken

into account in computing damages for actual loss.

(b) If neither damages nor unjust enrichment caused by misappropriation are provable, the court may order payment of a reasonable royalty for no longer than the period of time the use could have been prohibited.

(c) If willful and malicious misappropriation exists, the court may award exemplary damages in an amount not exceeding twice any award made under subdivision (a) or (b).

3426.4. If a claim of misappropriation is made in bad faith, a motion to terminate an injunction is made or resisted in bad faith, or willful and malicious misappropriation exists, the court may award reasonable attorney's fees to the prevailing party.

3426.5. In an action under this title, a court shall preserve the secrecy of an alleged trade secret by reasonable means, which may include granting protective orders in connection with discovery proceedings, holding in-camera hearings, sealing the records of the action, and ordering any person involved in the litigation not to disclose an alleged trade secret without prior court approval.

3426.6. An action for misappropriation must be brought within three years after the misappropriation is discovered or by the exercise of reasonable diligence should have been discovered. For the purposes of this section, a continuing misappropriation constitutes a single claim.

3426.7. (a) Except as otherwise expressly provided, this title does not supersede any statute relating to misappropriation of a trade secret, or any statute otherwise regulating trade secrets.

(b) This title does not affect (1) contractual remedies, whether or not based upon misappropriation of a trade secret, (2) other civil remedies that are not based upon misappropriation of a trade secret, or (3) criminal remedies, whether or not based upon misappropriation of a trade secret.

(c) This title does not affect the disclosure of a record by a state or local agency under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). Any determination as to whether the disclosure of a record under the California Public Records Act constitutes a misappropriation of a trade secret and the rights and remedies with respect thereto shall be made pursuant to the law in effect before the operative date of this title.

3426.8. This title shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this title among states enacting it.

3426.9. If any provision of this title or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the title which can be given effect without the invalid provision or application, and to this end the provisions of this title are severable.

3426.10. This title does not apply to misappropriation occurring prior to January 1, 1985. If a continuing misappropriation otherwise

covered by this title began before January 1, 1985, this title does not apply to the part of the misappropriation occurring before that date. This title does apply to the part of the misappropriation occurring on or after that date unless the appropriation was not a misappropriation under the law in effect before the operative date of this title.

SEC. 2. Section 2036.2 is added to the Code of Civil Procedure, to read:

2036.2. In any action alleging the misappropration of a trade secret under the Uniform Trade Secrets Act (Title 5 (commencing with Section 3426) of Part 1 of Division 4 of the Civil Code), before commencing discovery relating to the trade secret under Chapter 2 (commencing with Section 1985) or Article 3 (commencing with Section 2016) of Chapter 3 of this title, the party alleging the misappropriation shall identify the trade secret with reasonable particularity subject to any orders which may be appropriate under Section 3426.5 of the Civil Code.

CHAPTER 1725

An act to amend Section 23161 of, to amend and repeal Sections 23171, 23176, and 23191 of, to add and repeal Sections 23166.1, 23186.1, and 23205.1 of, and to add and repeal Article 3 (commencing with Section 23230) to Chapter 12 of Division 11 of, the Vehicle Code, relating to driving offenses.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 23161 of the Vehicle Code is amended to read:

23161. (a) Except as provided in subdivision (f), if the court grants probation to any person punished under Section 23160, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as a condition of probation that the person be subject to one of the following:

(1) Be confined in the county jail for at least 48 hours but not more than six months and pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000). The court may order the Department of Motor Vehicles to suspend the privilege to operate a motor vehicle pursuant to paragraph (1) of subdivision (a) of Section 13352 when this condition of probation is imposed.

(2) Pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000) and have the privilege to operate a motor vehicle restricted for 90 days to necessary travel

to and from that person's place of employment and to and from the program described in subdivision (b) and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment.

(b) In any county where the county alcohol program administrator has certified and the board of supervisors has approved such a program or programs, the court shall also impose as a condition of probation that the driver shall participate in, and successfully complete, an alcohol or drug education program, or both of these programs, as designated by the court.

(c) Each county which has approved and certified an alcohol or drug education program or programs shall make provision for persons who cannot afford the program fee, in order to enable those persons to participate.

(d) In order to assure effectiveness of the alcohol or drug education program, the county shall provide, as appropriate, services to ethnic minorities, women, youth, or any other group that has particular needs related to the program.

(e) Any person required to successfully complete an alcohol or drug education program as a condition of probation shall enroll in the program and shall furnish proof of the enrollment to the court within 60 days of the court order, excluding any time of imprisonment ordered by the court. The person shall also participate in, and successfully complete, the program, and shall furnish proof of successful program completion within 120 days of the court order, excluding any time of imprisonment ordered by the court. The court shall revoke the person's probation pursuant to Section 23207, except for good cause shown, for the failure to comply with this subdivision.

(f) Notwithstanding subdivision (a), if the offense occurred in a vehicle requiring a driver with a class 1 or class 2 driver's license or with a certificate issued pursuant to Section 12804.1, the court shall upon conviction order the department to suspend the driver's privilege pursuant to paragraph (1) of subdivision (a) of Section 13352. This subdivision applies to convictions occurring on or after July 1, 1985.

SEC. 1.2. Section 23161 of the Vehicle Code is amended to read:

23161. (a) Except as provided in subdivision (f), if the court grants probation to any person punished under Section 23160, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as a condition of probation that the person be subject to one of the following:

(1) Be confined in the county jail for at least 48 hours but not more than six months and pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000). The court may order the Department of Motor Vehicles to suspend the privilege to operate a motor vehicle pursuant to paragraph (1) of subdivision (a) of Section 13352 when this condition of probation is imposed.

(2) Pay a fine of at least three hundred ninety dollars ($390) but

not more than one thousand dollars ($1,000) and have the privilege to operate a motor vehicle restricted for 90 days to necessary travel to and from that person's place of employment and to and from the program described in subdivision (b) and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment.

(b) In any county where the board of supervisors has approved such a program or programs, the court shall also impose as a condition of probation that the driver shall participate in, and successfully complete, an alcohol or drug education program, or both of these programs, as designated by the court.

(c) Each county which has approved an alcohol or drug education program or programs shall make provision for persons who cannot afford the program fee, in order to enable those persons to participate.

(d) In order to assure effectiveness of the alcohol or drug education program, the county shall provide, as appropriate, services to ethnic minorities, women, youth, or any other group that has particular needs related to the program.

(e) Any person required to successfully complete an alcohol or drug education program as a condition of probation shall enroll in the program and shall furnish proof of the enrollment to the court within 60 days of the court order, excluding any time of imprisonment ordered by the court. The person shall also participate in, and successfully complete, the program, and shall furnish proof of successful program completion within 120 days of the court order, excluding any time of imprisonment ordered by the court. The court shall revoke the person's probation pursuant to Section 23207, except for good cause shown, for the failure to comply with this subdivision.

(f) Notwithstanding subdivision (a), if the offense occurred in a vehicle requiring a driver with a class 1 or class 2 driver's license or with a certificate issued pursuant to Section 12804.1, the court shall upon conviction order the department to suspend the driver's privilege pursuant to paragraph (1) of subdivision (a) of Section 13352. This subdivision applies to convictions occurring on or after July 1, 1985.

SEC. 1.4. Section 23166.1 is added to the Vehicle Code, to read:

23166.1. In counties participating in the pilot program established pursuant to Article 3 (commencing with Section 23230), the court may impose additional conditions of probation pursuant to this section. In those counties, in addition to the conditions specified in subdivision (a) or (b) of Section 23166, the court may, as a condition of probation, require that the person participate in a treatment program in an alcohol rehabilitation facility approved pursuant to Article 3 (commencing with Section 23230), as designated by the court, for not less than 30 days. A violation of the terms of the program or leaving the alcohol rehabilitation facility without authorization is a violation of probation.

The person shall pay the costs of the treatment program

commensurate with the person's ability to pay.

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

SEC. 2. Section 23171 of the Vehicle Code is amended to read:

23171. (a) (1) If the court grants probation to any person punished under Section 23170, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as conditions of probation that the person be confined in the county jail for at least 120 days but not more than one year and pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (5) of subdivision (a) of Section 13352.

(2) In those counties participating in the pilot program established pursuant to Article 3 (commencing with Section 23230), the court shall require that at least 30 days of the term of imprisonment prescribed under this subdivision be served in the county jail, but may in its discretion order that a portion or all of the rest of the term be served by participation in a treatment program in an alcohol rehabilitation facility approved pursuant to Article 3 (commencing with Section 23230), as designated by the court. The person shall not be ordered to the alcohol rehabilitation facility for less than 30 days, and the person shall pay the costs of that treatment program commensurate with the person's ability to pay. A violation of the terms of the program or leaving the alcohol rehabilitation facility without authorization is a violation of probation.

(b) In addition to the provisions of Section 23206 and subdivision (a), if the court grants probation to any person punished under Section 23170 who has not previously successfully completed a treatment program pursuant to paragraph (4) of subdivision (b) of Section 23166 or paragraph (4) of subdivision (b) of Section 23186, the court shall impose as a condition of probation that the person participate, for a least one year and in a manner satisfactory to the court, in a program approved pursuant to Chapter 9 (commencing with Section 11837) of Part 2 of Division 10.5 of the Health and Safety Code, as designated by the court. Under no circumstances shall the additional condition of probation required pursuant to this subdivision be construed as a basis for reducing any other probation requirement in this section or Section 23206 or for avoiding the mandatory license revocation provisions of paragraph (5) of subdivision (a) of Section 13352.

(c) This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1988, pursuant to Section 9611 of the Government Code, Section 23171 of the Vehicle Code, as amended by Section 21 of Chapter 1339 of the

Statutes of 1982, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 3. Section 23176 of the Vehicle Code is amended to read:

23176. (a) (1) If the court grants probation to any person punished under Section 23175, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as conditions of probation that the person be confined in the county jail for at least 180 days but not more than one year and pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (7) of subdivision (a) of Section 13352.

(2) In those counties participating in the pilot program established pursuant to Article 3 (commencing with Section 23230), the court shall require that at least one-fourth of the term of imprisonment prescribed under this subdivision be served in the county jail, but may in its discretion order that a portion or all of the rest of the term be served by participation in a treatment program in an alcohol rehabilitation facility approved pursuant to Article 3 (commencing with Section 23230), as designated by the court. The person shall not be ordered to the alcohol rehabilitation facility for less than 30 days, and the person shall pay the costs of that treatment program commensurate with the person's ability to pay. A violation of the terms of the program or leaving the alcohol rehabilitation facility without authorization is a violation of probation.

(b) In addition to the provisions of Section 23206 and subdivision (a), if the court grants probation to any person punished under Section 23175 who has not previously successfully completed a treatment program pursuant to paragraph (4) of subdivision (b) of Section 23166 or paragraph (4) of subdivision (b) of Section 23186, the court shall impose as a condition of probation that the person participate, for a least one year and in a manner satisfactory to the court, in a program approved pursuant to Chapter 9 (commencing with Section 11837) of Part 2 of Division 10.5 of the Health and Safety Code, as designated by the court. Under no circumstances shall the additional condition of probation required pursuant to this subdivision be construed as a basis for reducing any other probation requirement in this section or Section 23206 or for avoiding the mandatory license revocation provisions of paragraph (7) of subdivision (a) of Section 13352.

This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1988, pursuant to Section 9611 of the Government Code, Section 23176 of the Vehicle Code, as added by Section 4 of Chapter 637 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 4. Section 23186.1 is added to the Vehicle Code, to read:

23186.1. Notwithstanding Section 23186, the court may impose as conditions of probation, in lieu of the provisions of subdivision (a) or (b) of Section 23186, that the person be subject to all of the following:

(a) Be confined in the county jail for at least 30 days but not more than 330 days, and thereafter participate in a treatment program in an alcohol rehabilitation facility approved for participation in the pilot program pursuant to Article 3 (commencing with Section 23230), as designated by the court, for not less than 30 days. A violation of the terms of the program or leaving the alcohol rehabilitation facility without authorization is a violation of probation.

(b) Pay costs of the treatment program commensurate with the person's ability to pay.

(c) Pursuant to Section 13352.5, have the privilege to operate a motor vehicle be suspended for one year by the Department of Motor Vehicles and, after that one-year period, have the privilege restricted by the department for two additional years to necessary travel to and from that person's place of employment, and to and from the treatment program described in subdivision (d) and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment. The Department of Motor Vehicles shall not revoke the person's privilege to operate a motor vehicle under Section 13352, as provided in Section 13352.5.

(d) Participate, for at least one year and in a manner satisfactory to the court, in a program approved pursuant to Chapter 9 (commencing with Section 11837) of Part 2 of Division 10.5 of the Health and Safety Code, as designated by the court.

This section applies only to those counties participating in the pilot program established pursuant to Article 3 (commencing with Section 23230).

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

SEC. 5. Section 23191 of the Vehicle Code is amended to read:

23191. (a) (1) If the court grants probation to any person punished under Section 23190, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as conditions of probation that the person be confined in the county jail for at least one year, that the person pay a fine of at least three hundred ninety dollars ($390) but not more than five thousand dollars ($5,000), and that the person make restitution or reparation pursuant to Section 1203.1 of the Penal Code. The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (6) of subdivision (a) of Section 13352.

(2) In those counties participating in the pilot program established pursuant to Article 3 (commencing with Section 23230),

the court shall require that at least one-fourth of the terms of imprisonment prescribed under this subdivision be served in the county jail, but may in its discretion order that a portion or all of the rest of the term be served by participation in a treatment program in an alcohol rehabilitation facility approved pursuant to Article 3 (commencing with Section 23230), as designated by the court. The person shall not be ordered to the alcohol rehabilitation facility for less than 30 days, and the person shall pay the costs of that treatment program commensurate with the person's ability to pay. A violation of the terms of the program or leaving the alcohol rehabilitation facility without authorization is a violation of probation.

(b) In addition to the provisions of Section 23206 and subdivision (a), if the court grants probation to any person punished under Section 23190 who has not previously successfully completed a treatment program pursuant to paragraph (4) of subdivision (b) of Section 23166 or paragraph (4) of subdivision (b) of Section 23186, the court shall impose as a condition of probation that the person participate, for at least one year and in a manner satisfactory to the court, in a program approved pursuant to Chapter 9 (commencing with Section 11837) of Part 2 of Division 10.5 of the Health and Safety Code, as designated by the court. Under no circumstances shall the additional condition of probation required pursuant to this subdivision be construed as a basis for reducing any other probation requirement in this section or Section 23206 or for avoiding the mandatory license revocation provisions of paragraph (6) of subdivision (a) of Section 13352.

(c) This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1988, pursuant to Section 9611 of the Government Code, Section 23191 of the Vehicle Code, as amended by Section 28 of Chapter 1339 of the Statutes of 1982, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 6. Section 23205.1 is added to the Vehicle Code, to read:

23205.1. Upon any conviction for a violation of Section 23152 or 23153 which occurred within a county participating in the pilot program established pursuant to Article 3 (commencing with Section 23230), the court shall order a presentence assessment and screening by the county probation department or other agency designated by the county board of supervisors, to determine whether a custodial-rehabilitative community placement is warranted pursuant to those provisions. The cost of the presentence assessments and screenings shall be reimbursed from fees charged for referrals pursuant to Section 23236, as established by the county alcohol program administrator.

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

SEC. 7. Article 3 (commencing with Section 23230) is added to Chapter 12 of Division 11 of the Vehicle Code, to read:

Article 3. Alcohol Rehabilitation Facilities

23230. Pilot programs to determine the cost efficiency and therapeutic value of custodial-treatment community placement of persons convicted of violating Section 23152 or 23153 may be established pursuant to this article, by resolution of the county board of supervisors, in not more than four participating counties. Counties initially eligible to participate include the Counties of Los Angeles, Napa, and Riverside and one additional county which applies to, and is designated as most appropriate for the pilot program by, the State Department of Alcohol and Drug Programs. If any county declines to participate or terminates its pilot program, the State Department of Alcohol and Drug Programs may select the most appropriate substitute county from among the applicants.

Unless sooner terminated by a participating county, each pilot program established pursuant to this article shall terminate December 31, 1987.

23231. Placements pursuant to this article shall be made exclusively in alcohol rehabilitation facilities certified and approved as provided in this section. For purposes of this chapter, "alcohol rehabilitation facility" means a social rehabilitation facility licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, or any other facility licensed by the State Department of Health Services or the State Department of Social Services for the custodial, residential treatment of drug or alcohol abuse, which is approved and certified by the State Department of Alcohol and Drug Programs under this article. An alcohol rehabilitation facility shall conform to the standards established by the Board of Corrections pursuant to Section 6030 of the Penal Code for local detention facilities classified as a "Type I facility" by paragraph (3) of subdivision (b) of Section 1006 of Title 15 of the California Administrative Code.

An alcohol rehabilitation facility shall be certified by the county alcohol program administrator and approved by the county board of supervisors. To qualify, a facility shall have written policies and procedures, regularly reviewed at least annually by the county alcohol program administrator, on monitoring the movement of program participants while inside or outside the facility and accounting for their movements and location at all times when outside of the facility. The policies and procedures shall also specify conditions under which participants may leave the facility, provision for detection of unauthorized absences, and provision for notifying the court of unauthorized absences or other violations of program rules.

Additionally, each alcohol rehabilitation facility shall be approved and monitored by the county probation department as to the

adequacy of the custodial care provided, which shall, as near as possible, be equivalent to other types of facilities providing similar levels of custodial care.

23232. An alcohol rehabilitation facility shall provide residential treatment, including bed and board and a full-time rehabilitation program, with participants referred as a condition of probation and not permitted to leave the facility except under direct supervision of the facility's professional staff and as a part of the rehabilitation program.

23233. The residential treatment program provided at an alcohol rehabilitation facility shall be at least 30 days in duration.

23234. The alcohol rehabilitation facility shall notify the court, which referred a person under Article 2 (commencing with Section 23152), of any violation.

23235. The State Department of Alcohol and Drug Programs shall prepare and revise semiannually a list of approved alcohol rehabilitation facilities and furnish a copy of the list to each trial court in this state every six months.

23236. (a) Fees charged to persons referred to an alcohol rehabilitation facility pursuant to this chapter as a condition of probation shall be established by the county alcohol program administrator in accordance with Section 11841 of the Health and Safety Code to defray the costs of the program. The county alcohol program administrator shall also determine each participant's ability to pay in accordance with guidelines adopted by the administrator. However, the per diem cost to the participant in a treatment program at an approved alcohol rehabilitation facility shall not exceed the per diem cost of the jail of that county.

(b) Courts shall endeavor to allocate referrals of indigents and those least able to pay among all participating alcohol rehabilitation facilities.

23237. No alcohol rehabilitation facility shall be required to accept referrals of probationers under this chapter. However, alcohol rehabilitation facilities participating in the program under this chapter may not refuse to accept any person referred to the facility by a court pursuant to this chapter, regardless of the person's ability to pay.

23238. This article shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date.

SEC. 8. (a) On or before June 30, 1986, the Legislative Analyst shall report to the Legislature on whether the intent of the Legislature is being implemented to grant equal access by all economic groups to alcohol rehabilitation facilities designated pursuant to Article 3 (commencing with Section 22230) of Chapter 12 of Division 11 of the Vehicle Code. The Legislative Analyst shall determine and report on whether indigents and persons with limited ability to pay the cost of treatment are being included in the pilot programs in the same proportion these groups are given mandatory

jail sentences, when compared to all persons given mandatory jail sentences, for convictions for violations of Sections 23152 and 23153 of the Vehicle Code.

(b) The Legislative Analyst shall review the results of the use of alcohol rehabilitation facilities and the effect of their programs upon the recidivism of drunk drivers in the Counties of Los Angeles, Riverside, and Napa in the years 1985, 1986, and 1987. On or before April 1, 1988, and in cooperation with the State Department of Alcohol and Drug Programs, the State Department of Health Services, the State Department of Social Services, the courts, county alcohol program administrators, and the county probation departments, the Legislative Analyst shall prepare and submit a report to the Legislature on the study and review under this section. The report shall compare recidivism rates of persons completing the treatment programs with the recidivism rates of persons serving sentences in the county jail for the same violations.

SEC. 9. Section 1 of this act shall become operative only if Assembly Bill 2491, Senate Bill 895, and Senate Bill 2232 are enacted and become effective on January 1, 1985, and each bill amends Section 23161 of the Vehicle Code, and Assembly Bill 3872 is not enacted or, if enacted, does not amend Section 23161 of the Vehicle Code.

SEC. 10. Section 1.2 of this act shall become operative only if Assembly Bill 2491, Assembly Bill 3872, Senate Bill 895, and Senate Bill 2232 are enacted and become effective on January 1, 1985, and each bill amends Section 23161 of the Vehicle Code.

CHAPTER 1726

An act to amend Section 1799.4 of the Health and Safety Code, relating to the Commission on Emergency Medical Services.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 1799.4 of the Health and Safety Code is amended to read:

1799.4. (a) Except as otherwise provided in this section, the terms of the members of the commission shall be three calendar years, commencing January 1 of the year of appointment. No member shall serve more than two consecutive full terms; provided, however, that a term or part of a term served pursuant to paragraph (1) or (2) of subdivision (b) shall not be included in this limitation.

(b) (1) The first members appointed on or after January 1, 1985, pursuant to subdivisions (a), (b), (c), and (d) of Section 1799.2 shall serve from the date of appointment to the end of that calendar year,

plus one additional year.

(2) The first members appointed on or after January 1, 1985, pursuant to subdivisions (e), (f), (g), (h), and (i) of Section 1799.2 shall serve from the date of appointment to the end of that calendar year, plus two additional years.

(3) The first members appointed on or after January 1, 1985, pursuant to subdivisions (j) and (k) of Section 1799.2 shall be from the date of appointment to the end of that calendar year, plus three additional years.

(4) The first member appointed on or after January 1, 1985, pursuant to subdivision (*l*) of Section 1799.2 shall serve from the date of appointment to the end of that calendar year, plus one additional year; the second member shall serve from the date of appointment to the end of that calendar year, plus two additional years; and the third member shall serve from the date of appointment to the end of that calendar year, plus three additional years.

(5) It is the purpose of this subdivision to provide for staggered terms for the members of the commission.

CHAPTER 1727

An act to amend Sections 94304, 94305, 94310, and 94345 of, and to repeal and add Section 94350 of, the Education Code, relating to private postsecondary institutions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 94304 of the Education Code is amended to read:

94304. (a) There is in the State Department of Education a Council for Private Postsecondary Educational Institutions consisting of 15 members, selected as follows:

(1) The superintendent or his or her designee shall be a member, and the superintendent shall appoint four members. Two shall be members of the general public, one with a strong interest in developing private postsecondary education, and one representative of business that employs persons in positions requiring vocational or technical education. Two shall be administrative heads of institutions, one representing a nonaccredited, degree granting school operating pursuant to subdivision (b) or (c) of Section 94310 and one representing a nonaccredited, non-degree granting school operating pursuant to subdivision (d) of Section 94311.

(2) The Senate Rules Committee shall appoint five members. Two shall be members of the general public, one with a knowledge

of private vocational education, and one representative of a labor organization that represents persons with vocational or technical training. Three shall be administrative heads of institutions, one representing a nonaccredited, degree granting school operating pursuant to subdivision (b) or (c) of Section 94310, one representing an accredited non-degree granting school operating pursuant to subdivision (c) of Section 94311, and one representing a nonaccredited, non-degree granting school operating pursuant to subdivision (d) of Section 94311.

(3) The Speaker of the Assembly shall appoint five members. Three shall be members of the general public with an interest in developing private postsecondary vocational and technical education. Two shall be administrative heads of institutions, one representing an accredited, non-degree granting school operating pursuant to subdivision (c) of Section 94311, and one representing a nonaccredited, non-degree granting school operating pursuant to subdivision (d) of Section 94311.

(4) In addition, the following shall serve as ex officio members of the council:

(A) The Director of Consumer Affairs, or his or her designee.

(B) The Director of Employment Development, or his or her designee.

(C) The Director of the California Postsecondary Education Commission, or his or her designee.

Ex officio members have no vote.

It is the intent of the Legislature that the council shall provide leadership and direction in the continuing development of private postsecondary education as an integral and effective element in the structure of postsecondary education in California. The work of the council shall at all times be directed toward maintaining and continuing, to the maximum degree permissible, private control and autonomy in the administration of the private postsecondary schools and colleges in this state.

(5) Administrative heads of institutions appointed under paragraphs (2) and (3) may be selected from lists submitted by an association or associations of institutions governed under this chapter which has at least 30 members.

(6) Public members appointed under paragraphs (1), (2), and (3) shall not be retained or employed by any secondary or postsecondary educational institution or system when appointed or during their term of appointment.

(b) The first members shall be appointed on or before January 15, 1982, and the superintendent shall designate the date of the first meeting of the council.

The terms of office of the members of the council shall commence on January 15, 1982, and the members shall enter upon their terms of office by lot so that the terms of five members shall expire on January 15, 1983; the terms of five members shall expire on January 15, 1984; and the terms of five members shall expire on January 15,

1985.

The terms of the members of the council shall be four years. No appointee shall serve on the council for more than eight consecutive years.

Any member of the council who misses two consecutive regular meetings of the council without cause forfeits the office, thereby creating a vacancy.

At the first meeting of the council, and annually thereafter, the members shall select one of their number to serve as chairperson and one to serve as vice chairperson. The vice chairperson shall preside over all meetings of the council in the absence of the chairperson.

(c) Any vacancy on the council shall be filled in the same manner as provided for appointment of council members in subdivision (a). The appointee to fill a vacancy shall hold office only for the balance of the unexpired term.

(d) Appointed members of the council shall receive no compensation but shall receive their actual expenses for attendance at official council meetings, and when on official council business approved by the Superintendent of Public Instruction, not to exceed State Board of Control expense allowances.

(e) The council shall determine the time and place of council meetings which shall not be fewer than six times in each calendar year.

(f) The council shall:

(1) Advise the superintendent on the establishment of policy for the administration of this chapter.

(2) Establish a process, in cooperation with the superintendent, for the development and promulgation of rules and regulations. The process developed should not be inconsistent with the provisions of this chapter and allow for the input of consumers and institutions.

(3) Adopt procedures necessary or appropriate for the conduct of its work and the implementation of this chapter consistent with rules and regulations.

(4) Review minimum criteria utilized by the superintendent in conformity with subdivisions (b), (c), and (d) of Section 94310 and subdivision (d) of Section 94311 and Section 94312, including quality of education, ethical and business practices, health and safety, and fiscal responsibility, which applicants for approval to operate, or for an agent's permit, shall meet before the approval or permit may be issued, and to continue the approval or permit in effect. Criteria to be developed hereunder shall be such as will effectuate the purposes of this chapter but will not unreasonably hinder legitimate education innovation.

(5) In cooperation with the superintendent, prepare and submit an annual report to the California Postsecondary Education Commission to be used by the commission for the review and inclusion in the annual update of the five-year plan for postsecondary education.

(6) Review appeals and complaints from educational institutions,

agents, and consumers. Make recommendations to the superintendent regarding the disposition of these appeals and complaints.

(7) Represent private postsecondary educational institutions on the State Occupational Informational Coordinating Committee.

(8) Advise the superintendent regarding the appropriate action to be taken in the event that the visiting committee does not reach a unanimous recommendation on an institution's application for authorization pursuant to subdivisions (c) and (d) of Section 94310.

(g) All actions with the exception of those regarding the operating procedures of the council shall be adopted according to the affirmative vote of the majority of the council and shall be in writing.

SEC. 2. Section 94305 of the Education Code is amended to read:

94305. It is the intent of the Legislature that the superintendent meet regularly with the council, and that the superintendent work cooperatively with the council in providing leadership and direction in the continuing development of private postsecondary education.

The superintendent shall do all of the following:

(a) Establish policy for the administration of this chapter in cooperation with the council.

(b) Adopt regulations in cooperation with the council not inconsistent with this chapter governing the exercise of authority comprised by this article which shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Prepare annually a proposed budget for the support of activities of the State Department of Education pursuant to this article. The proposed budget shall be presented to the council for its review and recommendations.

(d) Consult with the council prior to instituting any action to deny, suspend, or withdraw approval or authorization of courses or schools pursuant to this article.

(e) Meet with the council at least twice per year. Take into consideration the advice of the council on all matters where the council is authorized to communicate advice to the director.

(f) Impanel special committees of technically qualified persons to assist the superintendent and the council in the development of standards for education and educational institutions and the evaluation of any application or institution pursuant to this chapter. The special committees shall make such inspections and studies as may be necessary to enable them to advise the council and the superintendent in regard to action to be taken in any particular situation. Members of these special committees shall not be connected in any way with a school which is the subject of inspection or investigation. The members of the special committees shall serve at no expense to the state. The actual travel expenses incurred by each member of a special committee shall be reimbursed by the institution which is the subject of inspection or investigation.

(g) Publish annually for public distribution a directory of all institutions approved or authorized to operate in this state under provisions of this chapter. The directory shall contain as a minimum, the names and addresses of these institutions, together with a notation of the statute section or sections under which the institution has been authorized or approved.

(h) Negotiate and enter into interstate reciprocity agreements with similar agencies in other states if, in the judgment of the superintendent, such agreements are, or will be, helpful in effectuating the purposes of this chapter. However, nothing contained in any such reciprocity agreement shall be construed as limiting the superintendent's powers, duties, and responsibilities with respect to investigating or acting upon any application for issuance or renewal of any agent's permit or with respect to the enforcement of any provision of this chapter or any rule or regulation promulgated under this chapter. The agreements shall not include institutions authorized to operate under subdivision (b) of Section 94311 nor be in conflict with agreements arranged by the state licensing boards authorized to negotiate the agreements through provisions of the Business and Professions Code.

(i) Receive, investigate, as he or she may deem necessary, and act upon applications for authorization or approval to operate educational institutions and applications for agent's permits.

(j) It is the intent of the Legislature that the superintendent develop, with the cooperation of the council, a program or procedure requiring institutions subject to the provisions of this section to provide evidence assuring the due and faithful performance of agreements or contracts with students and the refund of unearned tuition in the event the school ceases to exist or provide instruction.

(k) Request the Attorney General to bring actions pursuant to paragraph (2) of subdivision (a) of Section 94339 which the superintendent deems are necessary to enforce the provisions of this chapter.

SEC. 3. Section 94310 of the Education Code is amended to read:

94310. No institution may issue, confer, or award an academic or honorary degree unless the institution meets the requirements of at least one of the subdivisions of this section.

(a) The institution, which at the time of the issuance of a degree, has accreditation of the institution, program, or specific course of study upon which the degree is based by a national accrediting agency recognized by the United States Department of Education, the Western Association of Schools and Colleges, or by the Committee of Bar Examiners for the State of California. The institution shall file with the superintendent an annual affidavit by the administrative head of the institution stating that the institution is so accredited. Institutions authorized to operate under this subdivision may issue diplomas and certificates as well as degrees.

(b) The institution has been approved by the superintendent to award or issue specific degrees. The superintendent shall not

approve an institution to issue degrees until it is determined, based upon information submitted to him or her, that the institution has the facilities, financial resources, administrative capabilities, faculty, and other necessary educational expertise and resources to afford students and require of students the completion of a program of education which will prepare them for the attainment of a professional, technological, or educational objective, including, but not limited to, a degree; and the curriculum is consistent in quality with curricula offered by established institutions that issue the appropriate degree upon the satisfactory completion thereof. This shall include the determination that the course for which the degree is granted achieves its professed or claimed objective for higher education. The criteria developed hereunder shall be such as will effectuate the purposes of this chapter, but will not unreasonably hinder legitimate educational innovation.

Upon the receipt of a complete application, the superintendent shall, within 90 days, impanel a special committee for the purpose of evaluating the applicant institution. Within 90 days of the receipt of the special committee's recommendations, the superintendent shall take one of the following actions:

(1) Grant a full approval for a period not to exceed three years.

(2) Grant a conditional approval for a period not to exceed one year plus the remainder of the year in which the application was made.

(3) Disapprove the application. If the application is disapproved or a conditional approval is granted, the institution shall be advised of the specific reasons for such action and the specific corrective measures needed to achieve full approval.

Those institutions approved to issue degrees pursuant to this subdivision may also be authorized by the superintendent to issue diplomas for the completion of courses of study, within their approved degree program, but which do not fully meet the degree requirements. The superintendent may approve an application to issue honorary degrees, provided the applicant institution has full approval to issue academic degrees.

(c) The institution has demonstrated that it is in compliance with formal standards recommended by the Council for Postsecondary Educational Institutions and adopted by the superintendent, which shall include, but not be limited to, the standards developed by the special committee pursuant to Section 94304.5.

(1) The institution shall demonstrate compliance with the standards through a comprehensive onsite review process conducted by a three-member visiting committee impaneled by the superintendent for that purpose pursuant to paragraph (2). The process shall review all of the following:

(A) Institutional objectives.

(B) Administrative methods.

(C) Curriculum.

(D) Instruction.

(E) Faculty, including their qualifications.
(F) Physical facilities.
(G) Administrative personnel.
(H) Procedures for keeping educational records.
(I) Tuition, fee, and refund schedules.
(J) Admissions standards.
(K) Scholastic regulations and graduation requirements.
(L) Degrees offered.
(M) Financial stability, including that the capital assets of the institution are sufficient for the type, level, and number of degree programs offered and that the current assets of the institution are sufficient to serve the number of students then currently enrolled and to meet any tuition or fee refunds which may reasonably be expected under the institution's refund policy.

(2) Within 90 days of the date of receipt of a completed application, the superintendent shall impanel a visiting committee for the purpose of reviewing the applicant institution. The visiting committee shall be composed as follows:

(A) One member appointed by the director of the California Postsecondary Education Commission.

(B) One member appointed by the superintendent from a list of three names submitted by the Council for Private Postsecondary Educational Institutions.

(C) One member appointed by the superintendent from his or her staff, who shall serve as chairperson of the visiting committee.

(D) Additional members may be appointed by the superintendent if the superintendent determines that their technical expertise is necessary to review the applicant institution. These members shall be nonvoting members.

(3) The visiting committee's responsibilities shall include all of the following:

(A) To verify the accuracy of the information submitted by the applicant institution.

(B) To determine whether the applicant institution complies with the standards required by statute and regulation.

(C) To provide the applicant institution with a preliminary report of its findings, including its recommendation regarding the grant of the requested authorization, no later than 30 days following completion of the onsite review. The applicant institution shall provide the visiting committee with any additional information the visiting committee may request within 30 days after receipt of the preliminary report.

(D) To review the applicant institution's response to the preliminary report, and no later than 30 days following receipt of the response, submit a final report to the superintendent. The final report shall include the visiting committee's recommendation for the grant of authorization or for the denial of authorization.

(4) If the visiting committee's recommendation regarding authorization is not unanimous, the superintendent shall refer the

final report to the council or to an appropriate appeals committee of the council for its advice pursuant to paragraph (8) of subdivision (f) of Section 94304.

(5) Within 90 days of the receipt of a unanimous visiting committee's report or the advice of the council, as appropriate, the superintendent shall take one of the following alternative actions:

(A) Grant the applicant institution full authorization for a period not to exceed five years. Authorization pursuant to this subparagraph shall continue to be valid upon payment of the annual renewal fee specified in Section 94331.

(B) Disapprove the application.

The superintendent shall advise the applicant institution of the specific reasons for action taken pursuant to subparagraph (B) and of the specific corrective measures needed to obtain authorization. If those corrective measures have been taken, authorization may then be granted for an initial period not to exceed one year, and for periods of five years upon each subsequent renewal, subject to the payment of the annual renewal fee specified in Section 94331.

(6) Not later than 90 days prior to the expiration of an authorization to operate, an institution shall file a completed application for reauthorization pursuant to subdivision (c) with the superintendent. The reauthorization process for all institutions shall include a full review by a visiting committee.

(7) All institutions operating pursuant to authorization received under this subdivision in effect on June 30, 1984, shall receive conditional authorization for a period not to exceed three years. On a specified date prior to June 30, 1987, determined by the superintendent, each institution granted conditional authorization pursuant to this paragraph shall file a completed application for reauthorization pursuant to subdivision (c).

(8) Authorization received pursuant to this subdivision shall not be interpreted to endorse, and it is unlawful for, any institution to represent by any means that the State of California, Superintendent of Public Instruction, State Board of Education, or the State Department of Education has made any accreditation or endorsement of the course of study or degree.

(9) If at any time the superintendent determines that an authorized institution has significantly deviated from the standards for authorization, but not to an extent which would warrant the withdrawal of the institution's authorization, the superintendent may place the institution on probation for a specific period of time. During the period of probation, the institution shall be subject to special scrutiny by the superintendent. That scrutiny may include required submission of periodic reports, as prescribed by the superintendent, and special visits by authorized representatives of the superintendent. If at the end of the specified probation period, the institution has not taken steps to eliminate the cause for its probation which the superintendent finds satisfactory, the superintendent may withdraw the institution's authorization to

award degrees. An institution placed on probation pursuant to this paragraph may appeal the superintendent's action to the council. The appeal shall be filed no later than 30 days following the superintendent's initial action pursuant to this paragraph.

(d) The institution is structured by schools of theology, and awards degrees primarily in theology and other areas of religious study, and it has filed the following affidavits with the superintendent:

(1) An annual affidavit of "full disclosure" describing the institutional objectives and proposed methods of achieving them, the curriculum, instruction, faculty with qualifications, physical facilities, administrative personnel, educational recordkeeping procedures, tuition and fee schedule, tuition refund schedule, scholastic regulations, degrees to be conferred, graduation requirements, and financial stability as evidenced by a certified financial statement for the preceding year.

(2) An affidavit by the president or other head stating that the institution owns, and shall continue to own, net assets in the amount of fifty thousand dollars ($50,000) which is used solely for the purpose of education as stated in paragraph (1), located within this state, and stating that these assets provide sufficient resources to achieve the educational objectives of the institution. These assets shall include such real property as buildings and facilities, library materials, and instructional materials, but shall not include other personal property not used directly and exclusively by the institution for the purpose of education. The affidavit shall be accompanied by a statement from a public accountant showing the value of the interest of the institution therein to be at least fifty thousand dollars ($50,000) above the unpaid balance on any note secured by a mortgage, deed of trust, or the unpaid balance on a contract of sale.

(3) An annual affidavit by the president or other head setting forth, as a minimum, the following information:

(A) All names, whether real or fictitious, of the person, institution, firm, association, partnership or corporation under which it has done or is doing business.

(B) The address, including city and street, of every place of doing business of the person, firm, association, partnership, or corporation, within this state.

(C) The address, including city and street, of the location of the records of the person, firm, association, partnership or corporation, and the name and address, including city and street, of the custodian of those records.

(D) The names and addresses, including city and street, of the directors, if any, and principal officers of the person, firm, association, partnership, or corporation.

(E) That the records required by subdivision (k) of Section 94312 are maintained at the address stated, and are true and accurate.

Any change in the items of information required to be included in this affidavit shall be reported to the superintendent within 20 days

of such change.

Within 90 days of the receipt of the affidavits described in paragraphs (1), (2), and (3), and prior to granting the initial authorization to operate, the superintendent shall verify the truthfulness and accuracy of the affidavits by impaneling a three-member team comprised of one representative which he or she shall select, one representative of the California Postsecondary Education Commission, and one representative selected by, but not affiliated with, the institution to be inspected. Within 30 days of the receipt of the report from the three-member team, the superintendent shall grant or deny authorization to operate. Authorization to operate may be denied only if the affidavits are inaccurate. Authorization to operate may be granted for one year initially and for periods of three years upon each subsequent renewal, subject to payment of an annual fee pursuant to Section 94331. For all affidavits beyond the initial application, the superintendent may take any steps necessary to verify the truthfulness and accuracy of the affidavits. Filing pursuant to this subdivision shall not be interpreted to mean, and it shall be unlawful for, any institution to expressly or impliedly represent by any means whatsoever, that the State of California, Superintendent of Public Instruction, the State Board of Education, or the Department of Education has made any evaluation, recognition, accreditation, approval, or endorsement of the course of study or degree.

SEC. 3.5. Section 94310 of the Education Code is amended to read:

94310. No institution may issue, confer, or award an academic or honorary degree unless the institution meets the requirements of at least one of the subdivisions of this section.

(a) The institution, which at the time of the issuance of a degree, has accreditation of the institution, program, or specific course of study upon which the degree is based by a national accrediting agency recognized by the United States Department of Education, the Western Association of Schools and Colleges, or by the Committee of Bar Examiners for the State of California. The institution shall file with the superintendent an annual affidavit by the administrative head of the institution stating that the institution is so accredited. Institutions authorized to operate under this subdivision may issue diplomas and certificates as well as degrees.

(b) The institution, which at the time of the issuance of a degree, has full institutional approval by the superintendent to award or issue specific professional, technological, or education degrees.

(1) The superintendent shall not approve an institution to issue degrees until he or she has conducted a qualitative review and assessment of, and has approved, each program offered by the institution, and the superintendent has determined, based upon information submitted to him or her, all of the following:

(A) The institution has facilities, financial resources, administrative capabilities, faculty, and other necessary educational

expertise and resources to afford students, and require of students, the completion of a program of education which will prepare them for the attainment of a professional, technological, or educational objective, including, but not limited to, a degree.

(B) The curriculum is consistent in quality with curricula offered by appropriate established accredited institutions which are recognized by the United States Department of Education or the Committee of Bar Examiners for the State of California and issue the appropriate degree upon the satisfactory completion of specific qualitative academic programs.

(C) The course for which the degree is granted achieves its professed or claimed academic objective for higher education, with verifiable evidence of academic achievement comparable to that required of graduates of other recognized schools accredited by an appropriate accrediting commission recognized by the United States Department of Education or the Committee of Bar Examiners for the State of California.

The criteria developed for conducting the review and assessment shall effectuate the purposes of this chapter, but shall not unreasonably hinder legitimate educational innovation.

(2) The superintendent shall conduct the qualitative review and assessment of the institution and all programs offered through a comprehensive onsite review process, performed by a qualified visiting committee impaneled by the superintendent for that purpose. The visiting committee, which shall be impaneled by the superintendent within 90 days of the date of receipt of a completed application, shall be composed of educators from both accredited and state approved institutions. Within 90 days of the receipt of the visiting committee's report and recommendations, the superintendent shall take one of the following actions:

(A) Grant full institutional approval for a period not to exceed three years.

(B) Grant candidate for institutional approval status for a period not to exceed two years plus the remainder of the calendar year in which the application was made. Candidate status may be renewed only one time, at the discretion of the superintendent.

(C) Disapprove the application.

If the application is disapproved, or candidate for institutional approval status is granted, the institution shall be advised of the specific reasons for the action and the specific corrective measures needed to achieve full institutional approval. An institution may not advertise itself as an approved or fully approved institution unless each degree program offered by the institution has been approved in accordance with the requirements of this section.

(3) (A) The superintendent shall grant full institutional approval status for three years to all institutions operating pursuant to subdivision (b) of Section 94310 on June 30, 1984, as it read on that date and which have received full approval of all courses offered.

(B) The superintendent shall grant candidate for institutional

approval status for a period not to exceed two years to all institutions operating on June 30, 1984, pursuant to both subdivisions (b) and (c) of Section 94310 as it read on that date. The superintendent shall specify a date, prior to June 30, 1986, by which all institutions operating pursuant to this subparagraph shall file a completed application for either full institutional approval pursuant to this subdivision, or authorization to operate pursuant to subdivision (c).

(4) The superintendent may authorize any institution approved to issue degrees pursuant to this subdivision to issue diplomas for the completion of courses of study which do not fully meet the degree requirements, but are within the institution's approved degree program.

The superintendent may approve an application to issue honorary degrees if the applicant institution has received full institutional approval to issue academic degrees.

(c) The institution has demonstrated that it is in compliance with formal standards recommended by the Council for Private Postsecondary Educational Institutions and adopted by the superintendent, which shall include, but not be limited to, the standards developed by the special committee pursuant to Section 94304.5.

(1) The institution shall demonstrate compliance with the standards through a comprehensive onsite review process conducted by a three-member visiting committee impaneled by the superintendent for that purpose pursuant to paragraph (2). The process shall review all of the following:

(A) Institutional objectives.

(B) Administrative methods.

(C) Curriculum.

(D) Instruction.

(E) Faculty, including their qualifications.

(F) Physical facilities.

(G) Administrative personnel.

(H) Procedures for keeping educational records.

(I) Tuition, fee, and refund schedules.

(J) Admissions standards.

(K) Scholastic regulations and graduation requirements.

(L) Degrees offered.

(M) Financial stability, including that the capital assets of the institution are sufficient for the type, level, and number of degree programs offered and that the current assets of the institution are sufficient to serve the number of students then currently enrolled and to meet any tuition or fee refunds which may reasonably be expected under the institution's refund policy.

(2) Within 90 days of the date of receipt of a completed application, the superintendent shall impanel a visiting committee for the purpose of reviewing the applicant institution. The visiting committee shall be composed as follows:

(A) One member appointed by the director of the California

Postsecondary Education Commission.

(B) One member appointed by the superintendent from a list of three names submitted by the Council for Private Postsecondary Educational Institutions.

(C) One member appointed by the superintendent from his or her staff, who shall serve as chairperson of the visiting committee.

(D) Additional members may be appointed by the superintendent if the superintendent determines that their technical expertise is necessary to review the applicant institution. These members shall be nonvoting members.

(3) The visiting committee's responsibilities shall include all of the following:

(A) To verify the accuracy of the information submitted by the applicant institution.

(B) To determine whether the applicant institution complies with the standards required by statute and regulation.

(C) To provide the applicant institution with a preliminary report of its findings, including its recommendation regarding the grant of the requested authorization, no later than 30 days following completion of the onsite review. The applicant institution shall provide the visiting committee with any additional information the visiting committee may request within 30 days after receipt of the preliminary report.

(D) To review the applicant institution's response to the preliminary report, and no later than 30 days following receipt of the response, submit a final report to the superintendent. The final report shall include the visiting committee's recommendation for the grant of authorization or for the denial of that authorization.

(4) If the visiting committee's recommendation regarding authorization is not unanimous, the superintendent shall refer the final report to the council or to an appropriate appeals committee of the council for its advice pursuant to paragraph (8) of subdivision (f) of Section 94304.

(5) Within 90 days of the receipt of a unanimous visiting committee's report or the advice of the council, as appropriate, the superintendent shall take one of the following alternative actions:

(A) Grant the applicant institution full authorization for a period not to exceed five years. Authorization pursuant to this subparagraph shall continue to be valid upon payment of the annual renewal fee specified in Section 94331.

(B) Disapprove the application.

The superintendent shall advise the applicant institution of the specific reasons for action taken pursuant to subparagraph (B) and of the specific corrective measures needed to obtain authorization. If those corrective measures have been taken, authorization may then be granted for an initial period not to exceed one year, and for periods of five years upon each subsequent renewal, subject to the payment of the annual renewal fee specified in Section 94331.

(6) Not later than 90 days prior to the expiration of an

authorization to operate, an institution shall file a completed application for reauthorization pursuant to subdivision (c) with the superintendent. The reauthorization process for all institutions shall include a full review by a visiting committee.

(7) All institutions operating pursuant to authorization received under this subdivision in effect on June 30, 1984, shall receive conditional authorization for a period not to exceed three years. On a specified date prior to June 30, 1987, determined by the superintendent, each institution granted conditional authorization pursuant to this paragraph shall file a completed application for reauthorization pursuant to subdivision (c).

(8) Authorization received pursuant to this subdivision shall not be interpreted to endorse, and it is unlawful for, any institution to represent by any means that the State of California, the Superintendent of Public Instruction, State Board of Education, or the State Department of Education has made any accreditation or endorsement of the course of study or degree.

(9) If at any time the superintendent determines that an authorized institution has significantly deviated from the standards for authorization, but not to an extent which would warrant the withdrawal of the institution's authorization, the superintendent may place the institution on probation for a specific period of time. During the period of probation, the institution shall be subject to special scrutiny by the superintendent. That scrutiny may include required submission of periodic reports, as prescribed by the superintendent, and special visits by authorized representatives of the superintendent. If at the end of the specified probation period, the institution has not taken steps to eliminate the cause for its probation which the superintendent finds satisfactory, the superintendent may withdraw the institution's authorization to award degrees. An institution placed on probation pursuant to this paragraph may appeal the superintendent's action to the council. The appeal shall be filed no later than 30 days following the superintendent's initial action pursuant to this paragraph.

(d) The institution is structured by schools of theology, and awards degrees primarily in theology and other areas of religious study, and it has filed all of the following affidavits with the superintendent:

(1) An annual affidavit of "full disclosure" describing the institutional objectives and proposed methods of achieving them, the curriculum, instruction, faculty with qualifications, physical facilities, administrative personnel, educational recordkeeping procedures, tuition and fee schedule, tuition refund schedule, scholastic regulations, degrees to be conferred, graduation requirements, and financial stability as evidenced by a certified financial statement for the preceding year.

(2) An affidavit by the president or other head stating that the institution owns, and shall continue to own, net assets in the amount of fifty thousand dollars ($50,000) which is used solely for the purpose

of education as stated in paragraph (1), located within this state, and stating that these assets provide sufficient resources to achieve the educational objectives of the institution. These assets shall include such real property as buildings and facilities, library materials, and instructional materials, but shall not include other personal property not used directly and exclusively by the institution for the purpose of education. The affidavit shall be accompanied by a statement from a public accountant showing the value of the interest of the institution therein to be at least fifty thousand dollars ($50,000) above the unpaid balance on any note secured by a mortgage, deed of trust, or the unpaid balance on a contract of sale.

(3) An annual affidavit by the president or other head setting forth, as a minimum, all of the following information:

(A) All names, whether real or fictitious, of the person, institution, firm, association, partnership, or corporation under which it has done or is doing business.

(B) The address, including city and street, of every place of doing business of the person, firm, association, partnership, or corporation, within this state.

(C) The address, including city and street, of the location of the records of the person, firm, association, partnership, or corporation, and the name and address, including city and street, of the custodian of those records.

(D) The names and addresses, including city and street, of the directors, if any, and principal officers of the person, firm, association, partnership, or corporation.

(E) That the records required by subdivision (k) of Section 94312 are maintained at the address stated, and are true and accurate.

Any change in the items of information required to be included in this affidavit shall be reported to the superintendent within 20 days of the change.

Within 90 days of the receipt of the affidavits described in paragraphs (1), (2), and (3), and prior to granting the initial authorization to operate, the superintendent shall verify the truthfulness and accuracy of the affidavits by impaneling a three-member team comprised of one representative which he or she shall select, one representative of the California Postsecondary Education Commission, and one representative selected by, but not affiliated with, the institution to be inspected. Within 30 days of the receipt of the report from the three-member team, the superintendent shall grant or deny authorization to operate. Authorization to operate may be denied only if the affidavits are inaccurate. Authorization to operate may be granted for one year initially and for periods of three years upon each subsequent renewal, subject to payment of an annual fee pursuant to Section 94331. For all affidavits beyond the initial application, the superintendent may take any steps necessary to verify the truthfulness and accuracy of the affidavits. Filing pursuant to this subdivision shall not be interpreted to mean, and it shall be unlawful

for, any institution to expressly or impliedly represent by any means whatsoever, that the State of California, the Superintendent of Public Instruction, the State Board of Education, or the State Department of Education has made any evaluation, recognition, accreditation, approval, or endorsement of the course of study or degree.

SEC. 4. Section 94345 of the Education Code is amended to read:

94345. Prior to September 1, 1989, the California Postsecondary Education Commission shall review and evaluate all of the following, and shall report to the Legislature on the results of this review and evaluation:

(a) The implementation of this chapter by the State Department of Education.

(b) The effectiveness of subdivisions (b), (c), and (d) of Section 94310 in protecting the integrity of degrees and diplomas issued by private postsecondary educational institutions.

SEC. 5. Section 94350 of the Education Code is repealed.

SEC. 6. Section 94350 is added to the Education Code, to read:

94350. This chapter shall become inoperative on June 30, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 6.5. Section 3.5 of this bill incorporates amendments to Section 94310 of the Education Code proposed by both this bill and SB 1923. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, but this bill becomes operative first, (2) each bill amends Section 94310 of the Education Code, and (3) this bill is enacted after SB 1923, in which case Section 94310 of the Education Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of SB 1923, at which time Section 3.5 of this bill shall become operative.

SEC. 7. This act is an urgency statute necessary for the immmediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for the orderly evaluation and implementation of the provisions of law governing private postsecondary educational institutions, it is necessary that this act take effect immediately.

CHAPTER 1728

An act to amend Section 6563 of, and to add Section 6596 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 6563 of the Revenue and Taxation Code is amended to read:

6563. (a) The board may decrease or increase the amount of the determination before it becomes final, but the amount may be increased only if a claim for the increase is asserted by the board at or before the hearing. Unless the penalty imposed by Section 6485 or Section 6514 applies to the amount of the determination as originally made or as increased, the claim for increase must be asserted during one of the following applicable periods:

(1) In the case of any taxpayer whose reported gross receipts and total sales price of property sold or purchased by him or her is less than ten million dollars ($10,000,000) in each calendar quarter of the period or periods to which the determination applies, within three years after the first deficiency determination or within three years after the time tax records requested by the board were made available, whichever is later.

(2) In the case of any other taxpayer, within eight years after the first deficiency determination or within eight years after the time tax records requested by the board were made available, whichever is later.

(b) If the taxpayer and the board mutually agree, the time limits specified in subdivision (a) may be waived.

(c) The board shall specify the information on which it bases its increase.

SEC. 2. Section 6596 is added to the Revenue and Taxation Code, to read:

6596. (a) If the board finds that a person's failure to make a timely return or payment is due to the person's reasonable reliance on written advice from the board, the person may be relieved of the taxes imposed by Sections 6051 and 6201 and any penalty or interest added thereto.

(b) For the purpose of this section, a person's failure to make a timely return or payment shall be considered to be due to reasonable reliance on written advice from the board, only if the board finds that all of the following conditions are satisfied:

(1) The person requested in writing that the board advise him or her whether a particular activity or transaction is subject to tax under this part. The specific facts and circumstances of the activity or transaction shall be fully described in the request.

(2) The board responded in writing to the person regarding the written request for advice, stating whether or not the described activity or transaction is subject to tax, or stating the conditions under which the activity or transaction is subject to tax.

(3) In reasonable reliance on the board's written advice, the person did not charge or collect from his or her customers amounts designated as sales tax reimbursement or use tax for the described activity or transaction.

(4) The liability for taxes applied to a particular activity or transaction which occurred before either of the following:

(A) Before the board rescinded or modified the advice so given, by sending written notice to the person of the rescinded or modified advice.

(B) Before a change in statutory or constitutional law, a change in the board's regulations, or a final decision of a court, which renders the board's earlier written advice no longer valid.

(c) Any person seeking relief under this section shall file with the board:

(1) A copy of the person's written request to the board and a copy of the board's written advice.

(2) A statement under penalty of perjury setting forth the facts on which the claim for relief is based.

(3) Any other information which the board may require.

(d) Only the person making the written request shall be entitled to rely on the board's written advice to that person.

SEC. 3. (a) The Legislative Analyst shall investigate and report to the Legislature no later than January 1, 1986, on each of the following:

(1) If there are feasible cost-effective methods for the State Board of Equalization to obtain, file, and retrieve information regarding the types of specific transactions reported by taxpayers and the types of transactions covered by an audit by the board's staff. The information so obtained, filed, and retrieved would be for later use in administrative or court proceedings in determining, with respect to any taxpayer's activity or transaction, whether or not other taxpayers have paid sales or use tax on the same activity or transaction and whether or not the board has applied tax to other taxpayers engaged in the same activity or transaction.

(2) In what manner the information so obtained from other taxpayers should be disclosed, in order to protect to the greatest possible extent the confidentiality of the information.

(3) If it is feasible to provide by statute that a new product not previously marketed in California is not subject to tax unless the new product is specifically described in board regulations as subject to tax.

(b) Notwithstanding the provisions of Section 7056 of the Revenue and Taxation Code and Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code, the board shall make available to the Legislative Analyst any confidential taxpayer accounts and audits requested by the Legislative Analyst in order to complete the required investigation and report. The Legislative Analyst shall maintain the confidentiality of any taxpayer accounts and audits provided by the board.

SEC. 4. It is the intent of the Legislature that the State Board of Equalization shall explore and use every available means of regularly informing California businesses of the provisions of Section 6596 of the Revenue and Taxation Code.

SEC. 5. The State Board of Equalization shall request each city

which licenses businesses within its jurisdiction to add a notice to its business license applications. The requested notice shall state in substance that sales or use taxes may apply to the applicant's business activities, and that the applicant may seek written advice from the State Board of Equalization regarding the application of sales or use taxes to his or her business activities.

The board shall also make reasonable efforts to work with counties and other state agencies to disseminate information about taxpayer's obligations under the Sales and Use Tax Law.

CHAPTER 1729

An act to amend Sections 4677 and 4784 of, and to repeal Section 4785 of, the Welfare and Institutions Code, relating to developmental disabilities.

[Approved by Governor September 30, 1984 Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 4677 of the Welfare and Institutions Code is amended to read:

4677. (a) All parental fees collected by or for regional centers shall be remitted to the State Treasury to be deposited in the Developmental Disabilities Program Development Fund, which is hereby created and hereinafter called the Program Development Fund. The purpose of the Program Development Fund shall be to provide resources needed to initiate new programs, consistent with approved priorities for program development in the state plan.

In no event shall an allocation from the Program Development Fund be granted for more than 24 months.

On or before October 1, 1982, the State Council on Developmental Disabilities shall request from all regional centers information on priority services needed but currently unavailable. Based on the information provided by the regional centers and other local agencies, the State Council on Developmental Disabilities shall annually develop an assessment of the level of need for new community programs. This needs assessment shall be included in the state plan. The State Council on Developmental Disabilities, in consultation with the State Department of Developmental Services, shall make a recommendation to the Department of Finance as to the level of funding for program development to be included in the Governor's Budget, based upon this needs assessment.

(b) Parental fee schedules shall be evaluated pursuant to Section 4784 and adjusted annually by the department, with the approval of the state council. Fees for out-of-home care shall bear an equitable relationship to the cost of the care and the ability of the family to pay.

(c) In addition to parental fees and General Fund appropriations, the Program Development Fund may be augmented by federal funds available to the state for program development purposes, when these funds are allotted to the Program Development Fund in the state plan. The Program Development Fund is hereby appropriated to the department, and subject to any allocations which may be made in the annual Budget Act. In no event shall any of these funds revert to the General Fund.

(d) The Legislative Analyst shall review and comment on the utilization and effectiveness of the Program Development Fund in connection with the annual budget hearings.

The department may allocate funds from the Program Development Fund for any legal purpose, provided that requests for proposals and allocations are approved by the state council in consultation with the department, and are consistent with the priorities for program development in the state plan. Allocations from the Program Development Fund shall take into consideration the following factors:

(1) The future fiscal impact of the allocations on other state supported programs for developmentally disabled persons.

(2) The information on priority services needed, but currently unavailable, submitted by the regional centers.

Consistent with the level of need as determined in the state plan, excess parental fees may be used for purposes other than new program development only when specifically appropriated to the State Department of Developmental Services for those purposes.

For the 1982–83 fiscal year only, parental fees in excess of those appropriated in the Budget Act of 1982 are hereby appropriated to the State Department of Developmental Services for purchasing services by regional centers.

(e) Under no circumstances shall the deposit of federal moneys into the Program Development Fund be construed as requiring the State Department of Developmental Services to comply with a definition of "developmental disabilities" and "services for persons with developmental disabilities" other than as specified in subdivisions (a) and (b) of Section 4512 for the purposes of determining eligibility for developmental services or for allocating parental fees and state general funds deposited in the Program Development Fund.

SEC. 3. Section 4784 of the Welfare and Institutions Code is amended to read:

4784. (a) The Director of Developmental Services shall establish, annually review, and adjust as needed, a schedule for parental fees for services received through the regional centers. This schedule shall be revised to reflect changes in economic conditions that affect parents' ability to pay the fee.

(b) The parental fee schedule established pursuant to this section shall be exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) In establishing the amount parents shall pay, the director shall take into account all of the following factors:

(1) Medical expenses incurred prior to regional center care.

(2) Whether the child is living at home.

(3) Parental payments for medical expenses, clothing, incidentals, and other items considered necessary to the normal rearing of a child.

(4) Transportation expenses incurred in visiting a child.

(d) All parental payments shall be deposited in the Program Development Fund established in Chapter 6 (commencing with Section 4670) to provide resources needed to initiate new programs, consistent with approved priorities for program development in the state plan.

SEC. 4. Section 4785 of the Welfare and Institutions Code is repealed.

CHAPTER 1730

An act to amend Sections 2924c, 2924d, 2924f, 2924g, and 2934a of the Civil Code, and to amend Section 580c of the Code of Civil Procedure, relating to property.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 2924c of the Civil Code is amended to read:

2924c. (a) (1) Whenever all or a portion of the principal sum of any obligation secured by deed of trust or mortgage on real property hereafter executed has, prior to the maturity date fixed in such obligation, become due or been declared due by reason of default in payment of interest or of any installment of principal, or by reason of failure of trustor or mortgagor to pay, in accordance with the terms of such obligation or of such deed of trust or mortgage, taxes, assessments, premiums for insurance or advances made by beneficiary or mortgagee in accordance with the terms of such obligation or of such deed of trust or mortgage, the trustor or mortgagor or his successor in interest in the mortgaged or trust property or any part thereof, or any beneficiary under a subordinate deed of trust or any other person having a subordinate lien or encumbrance of record thereon, at any time within three months of the recording of the notice of default under such deed of trust or mortgage, if the power of sale therein is to be exercised, or, otherwise at any time prior to entry of the decree of foreclosure, may pay to the beneficiary or the mortgagee or their successors in interest, respectively, the entire amount then due under the terms of such deed of trust or mortgage and the obligation secured thereby

(including reasonable costs and expenses, subject to the provisions of subdivision (c) of this section, which are actually incurred in enforcing the terms of such obligation, deed of trust or mortgage, and trustee's or attorney's fees, subject to the provisions of subdivision (d) of this section), other than such portion of principal as would not then be due had no default occurred, and thereby cure the default theretofore existing, and thereupon, all proceedings theretofore had or instituted shall be dismissed or discontinued and the obligation and deed of trust or mortgage shall be reinstated and shall be and remain in force and effect, the same as if no such acceleration had occurred. The provisions of this section shall not apply to bonds or other evidences of indebtedness authorized or permitted to be issued by the Commissioner of Corporations or made by a public utility subject to the provisions of the Public Utilities Code.

(2) If the trustor, mortgagor, or other person authorized to cure the default pursuant to this subdivision does cure the default, that person may request the beneficiary or the mortgagee or their successors in interest to cause to be executed and recorded a notice of rescission which rescinds the declaration of default and demand for sale and upon receipt of a written request the beneficiary or mortgagee or their successors in interest shall cause to be executed and recorded a notice of rescission. The request to execute and record a notice of rescission shall be directed to the person whose name and address is set forth in the notice required by subdivision (b). The beneficiary, or the mortgagee or their successors in interest, shall cause the notice of rescission to be recorded within 30 days of the receipt of the written request.

No charge, except for the recording fee, shall be made for the execution and recordation of the notice which rescinds the declaration of default and demand for sale.

(b) (1) The notice, of any default described in this section, recorded pursuant to Section 2924, and mailed to any person pursuant to Section 2924b, shall begin with the following statement, printed or typed thereon:

"IMPORTANT NOTICE [14-point boldface type if printed or in capital letters if typed]

IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR PAYMENTS, IT MAY BE SOLD WITHOUT ANY COURT ACTION, [14-point boldface type if printed or in capital letters if typed] and you may have the legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within three months from the date this notice of default was recorded.

This amount is _____ as of _____ ,
(Date)

and will increase until your account becomes current. You may not

have to pay the entire unpaid portion of your account, even though full payment was demanded, but you must pay the amount stated above.

After three months from the date of recordation of this document (which date of recordation appears hereon), unless the obligation being foreclosed upon permits a longer period, you have only the legal right to stop the foreclosure by paying the entire amount demanded by your creditor.

To find out the amount you must pay, or to arrange for payment to stop the foreclosure, or if your property is in foreclosure for any other reason, contact:

_____

(Name of beneficiary or mortgagee)

_____

(Mailing address)

_____

(Telephone)

If you have any questions, you should contact a lawyer or the government agency which may have insured your loan.

Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale, provided the sale is concluded prior to the conclusion of the foreclosure.

Remember, YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION. [14-point boldface type if printed or in capital letters if typed]"

Unless otherwise specified, the notice, if printed, shall appear in at least 12-point boldface type.

If the obligation secured by the deed of trust or mortgage is a contract or agreement described in paragraph (1) or paragraph (4) of subdivision (a) of Section 1632, the notice required herein shall be in Spanish if the trustor requested a Spanish language translation of the contract or agreement pursuant to Section 1632. If the obligation secured by the deed of trust or mortgage is contained in a home improvement contract, as defined in Sections 7151.2 and 7159 of the Business and Professions Code, which is subject to the provisions of Title 2 (commencing with Section 1801), the seller shall specify on the contract whether or not the contract was principally negotiated in Spanish and if the contract was principally negotiated in Spanish, the notice required herein shall be in Spanish. No assignee of such contract or person authorized to record the notice of default shall incur any obligation or liability for failing to mail a notice in Spanish unless Spanish is specified in the contract or such assignee or person has actual knowledge that the secured obligation was principally negotiated in Spanish. Unless specified in writing to the contrary, a copy of the notice required by subdivision (3) of Section 2924b shall

be in English.

(2) Any failure to comply with the provisions of this subdivision shall not affect the validity of a sale in favor of a bona fide purchaser or the rights of an encumbrancer for value and without notice.

(c) Costs and expenses which may be charged pursuant to Sections 2924 to 2924i, inclusive, shall be limited to the costs incurred for recording, mailing, publishing, and posting notices required by Sections 2924 to 2924i, inclusive, postponement upon the written request of the trustor pursuant to Section 2924g made to either the beneficiary or trustee not to exceed fifty dollars ($50) per postponement and a fee for a trustee's sale guarantee or, in the event of judicial foreclosure, a litigation guarantee.

(d) Trustee's or attorney's fees which may be charged pursuant to subdivision (a), or until the notice of sale is deposited in the mail to the trustor as provided in Section 2924b, if the sale is by power of sale contained in the deed of trust or mortgage, or, otherwise at any time prior to the decree of foreclosure, are hereby authorized to be in an amount which does not exceed one hundred fifty dollars ($150) with respect to any portion of the unpaid principal sum secured which is fifty thousand dollars ($50,000) or less, plus one-half of 1 percent of the unpaid principal sum secured exceeding fifty thousand dollars ($50,000) up to and including one hundred fifty thousand dollars ($150,000), plus one-quarter of 1 percent of any portion of the unpaid principal sum secured exceeding one hundred fifty thousand dollars ($150,000) up to and including five hundred thousand dollars ($500,000), plus one-eighth of 1 percent of any portion of the unpaid principal sum secured exceeding five hundred thousand dollars ($500,000). Any charge for trustee's or attorney's fees authorized by this subdivision shall be conclusively presumed to be lawful and valid where such charge does not exceed the amounts authorized herein.

SEC. 1.5. Section 2924c of the Civil Code is amended to read:

2924c. (a) (1) Whenever all or a portion of the principal sum of any obligation secured by deed of trust or mortgage on real property hereafter executed has, prior to the maturity date fixed in such obligation, become due or been declared due by reason of default in payment of interest or of any installment of principal, or by reason of failure of trustor or mortgagor to pay, in accordance with the terms of such obligation or of such deed of trust or mortgage, taxes, assessments, premiums for insurance or advances made by beneficiary or mortgagee in accordance with the terms of such obligation or of such deed of trust or mortgage, the trustor or mortgagor or his successor in interest in the mortgaged or trust property or any part thereof, or any beneficiary under a subordinate deed of trust or any other person having a subordinate lien or encumbrance of record thereon, at any time within three months of the recording of the notice of default under such deed of trust or mortgage, if the power of sale therein is to be exercised, or, otherwise at any time prior to entry of the decree of foreclosure, may pay to the beneficiary or the mortgagee or their successors in interest,

respectively, the entire amount then due under the terms of such deed of trust or mortgage and the obligation secured thereby (including reasonable costs and expenses, subject to the provisions of subdivision (c) of this section, which are actually incurred in enforcing the terms of such obligation, deed of trust or mortgage, and trustee's or attorney's fees, subject to the provisions of subdivision (d) of this section), other than such portion of principal as would not then be due had no default occurred, and thereby cure the default theretofore existing, and thereupon, all proceedings theretofore had or instituted shall be dismissed or discontinued and the obligation and deed of trust or mortgage shall be reinstated and shall be and remain in force and effect, the same as if no such acceleration had occurred. The provisions of this section shall not apply to bonds or other evidences of indebtedness authorized or permitted to be issued by the Commissioner of Corporations or made by a public utility subject to the provisions of the Public Utilities Code.

(2) If the trustor, mortgagor, or other person authorized to cure the default pursuant to this subdivision does cure the default, that person may request the beneficiary or the mortgagee or their successors in interest to cause to be executed and recorded a notice of rescission which rescinds the declaration of default and demand for sale and upon receipt of a written request the beneficiary or mortgagee or their successors in interest shall cause to be executed and recorded a notice of rescission. The request to execute and record a notice of rescission shall be directed to the person whose name and address is set forth in the notice required by subdivision (b). The beneficiary, or the mortgagee or their successors in interest, shall cause the notice of rescission to be recorded within 30 days of the receipt of the written request.

No charge, except for the recording fee, shall be made for the execution and recordation of the notice which rescinds the declaration of default and demand for sale.

(b) (1) The notice, of any default described in this section, recorded pursuant to Section 2924, and mailed to any person pursuant to Section 2924b, shall begin with the following statement, printed or typed thereon:

"IMPORTANT NOTICE [14-point boldface type if printed or in capital letters if typed]

IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR PAYMENTS, IT MAY BE SOLD WITHOUT ANY COURT ACTION, [14-point boldface type if printed or in capital letters if typed] and you may have the legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within three months from the date this notice of default was recorded.

This amount is _____ as of _____ ,
(Date)

and will increase until your account becomes current. You may not have to pay the entire unpaid portion of your account, even though full payment was demanded, but you must pay the amount stated above. However, you and your beneficiary or mortgagee may mutually agree in writing prior to the time the notice of sale is posted (which may not be earlier than the end of the three-month period stated above) to, among other things, (1) provide additional time in which to cure the default by transfer of the property or otherwise; (2) establish a schedule of payments in order to cure your default; or both (1) and (2).

After three months from the date of recordation of this document (which date of recordation appears hereon), unless the obligation being foreclosed upon or a separate written agreement between you and your creditor permits a longer period, you have only the legal right to stop the sale of your property by paying the entire amount demanded by your creditor.

To find out the amount you must pay, or to arrange for payment to stop the foreclosure, or if your property is in foreclosure for any other reason, contact:

_____
(Name of beneficiary or mortgagee)

_____
(Mailing address)

_____
(Telephone)

If you have any questions, you should contact a lawyer or the government agency which may have insured your loan.

Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale, provided the sale is concluded prior to the conclusion of the foreclosure.

Remember, YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION. [14-point boldface type if printed or in capital letters if typed]"

Unless otherwise specified, the notice, if printed, shall appear in at least 12-point boldface type.

If the obligation secured by the deed of trust or mortgage is a contract or agreement described in paragraph (1) or paragraph (4) of subdivision (a) of Section 1632, the notice required herein shall be in Spanish if the trustor requested a Spanish language translation of the contract or agreement pursuant to Section 1632. If the obligation secured by the deed of trust or mortgage is contained in a home improvement contract, as defined in Sections 7151.2 and 7159 of the Business and Professions Code, which is subject to the provisions of Title 2 (commencing with Section 1801), the seller shall specify on

the contract whether or not the contract was principally negotiated in Spanish and if the contract was principally negotiated in Spanish, the notice required herein shall be in Spanish. No assignee of such contract or person authorized to record the notice of default shall incur any obligation or liability for failing to mail a notice in Spanish unless Spanish is specified in the contract or such assignee or person has actual knowledge that the secured obligation was principally negotiated in Spanish. Unless specified in writing to the contrary, a copy of the notice required by subdivision (3) of Section 2924b shall be in English.

(2) Any failure to comply with the provisions of this subdivision shall not affect the validity of a sale in favor of a bona fide purchaser or the rights of an encumbrancer for value and without notice.

(c) Costs and expenses which may be charged pursuant to Sections 2924 to 2924i, inclusive, shall be limited to the costs incurred for recording, mailing, publishing, and posting notices required by Section 2924 to 2924i, inclusive, postponement upon the written request of the trustor pursuant to Section 2924g made to either the beneficiary or trustee not to exceed fifty dollars ($50) per postponement and a fee for a trustee's sale guarantee or, in the event of judicial foreclosure, a litigation guarantee.

(d) Trustee's or attorney's fees which may be charged pursuant to subdivision (a), or until the notice of sale is deposited in the mail to the trustor as provided in Section 2924b, if the sale is by power of sale contained in the deed of trust or mortgage, or, otherwise at any time prior to the decree of foreclosure, are hereby authorized to be in an amount which does not exceed one hundred fifty dollars ($150) with respect to any portion of the unpaid principal sum secured which is fifty thousand dollars ($50,000) or less, plus one-half of 1 percent of the unpaid principal sum secured exceeding fifty thousand dollars ($50,000) up to and including one hundred fifty thousand dollars ($150,000), plus one-quarter of 1 percent of any portion of the unpaid principal sum secured exceeding one hundred fifty thousand dollars ($150,000) up to and including five hundred thousand dollars ($500,000), plus one-eighth of 1 percent of any portion of the unpaid principal sum secured exceeding five hundred thousand dollars ($500,000). Any charge for trustee's or attorney's fees authorized by this subdivision shall be conclusively presumed to be lawful and valid where such charge does not exceed the amounts authorized herein.

SEC. 2. Section 2924d of the Civil Code is amended to read:

2924d. (a) Commencing with the date that the notice of sale is deposited in the mail, as provided in Section 2924b, and until the property is sold pursuant to the power of sale contained in the mortgage or deed of trust, a beneficiary, trustee, mortgagee, or his or her agent or successor in interest, may demand and receive from a trustor, mortgagor, or his or her agent or successor in interest, or any beneficiary under a subordinate deed of trust, or any other person having a subordinate lien or encumbrance of record those reasonable costs and expenses, to the extent allowed by subdivision

(c) of Section 2924c, which are actually incurred in enforcing the terms of the obligation and trustee's or attorney's fees which are hereby authorized to be in an amount which does not exceed three hundred dollars ($300) with respect to any portion of the unpaid principal sum secured which is fifty thousand dollars ($50,000) or less, plus 1 percent of any portion of the unpaid principal sum secured exceeding fifty thousand dollars ($50,000) up to and including one hundred fifty thousand dollars ($150,000), plus one-half of 1 percent of any portion of the unpaid principal sum secured exceeding one hundred fifty thousand dollars ($150,000) up to and including five hundred thousand dollars ($500,000), plus one-quarter of 1 percent of any portion of the unpaid principal sum secured exceeding five hundred thousand dollars ($500,000). Any charge for trustee's or attorney's fees authorized by this subdivision shall be conclusively presumed to be lawful and valid where such charge does not exceed the amounts authorized herein. Any charge for trustee's or attorney's fees made pursuant to the provisions of this subdivision shall be in lieu of and not in addition to those charges authorized by subdivision (d) of Section 2924c.

(b) Upon the sale of property pursuant to a power of sale, a trustee, or his or her agent or successor in interest, may demand and receive from a beneficiary, or his or her agent or successor in interest, or may deduct from the proceeds of the sale, those reasonable costs and expenses, to the extent allowed by subdivision (c) of Section 2924c, which are actually incurred in enforcing the terms of the obligation and trustee's or attorney's fees which are hereby authorized to be in an amount which does not exceed three hundred dollars ($300) or one and one-third percent of the unpaid principal sum secured, whichever is greater. Any charge for trustee's or attorney's fees authorized by this subdivision shall be conclusively presumed to be lawful and valid where such charge does not exceed the amount authorized herein. Any charges for trustee's or attorney's fees made pursuant to the provisions of this subdivision shall be in lieu of and not in addition to those charges authorized by subdivision (a) of this section and subdivision (d) of Section 2924c.

(c) (1) No person shall pay or offer to pay or collect any rebate or kickback for the referral of business involving the performance of any act required by this article.

(2) Any person who violates this subdivision shall be liable to the trustor for three times the amount of any rebate or kickback, plus reasonable attorney's fees and costs, in addition to any other remedies provided by law.

(3) No violation of this subdivision shall affect the validity of a sale in favor of a bona fide purchaser or the rights of an encumbrancer for value without notice.

(d) It shall not be unlawful for a trustee to pay or offer to pay a fee to an agent or subagent of the trustee for work performed by the agent or subagent in discharging the trustee's obligations under the terms of the mortgage or deed of trust.

(e) When a court issues a decree of foreclosure, it shall have discretion to award attorney's fees, costs, and expenses as are reasonable, if provided for in the note, deed of trust, or mortgage, pursuant to Section 580c of the Code of Civil Procedure.

SEC. 3. Section 2924f of the Civil Code is amended to read:

2924f. (a) As used in this section and Sections 2924g and 2924h "property" means real property or a leasehold estate therein.

(b) Except as provided in subdivision (c), before any sale of property can be made under the power of sale contained in any deed of trust or mortgage notice of the sale thereof must be given by posting a written notice of the time of sale and of the street address and the specific place at such street address where the sale will be held, and describing the property to be sold, at least 20 days before the date of sale in one public place in the city where the property is to be sold, if the property is to be sold in a city, or, if not, then in one public place in the judicial district in which the property is to be sold, and publishing a copy thereof once a week for the same period, in some newspaper of general circulation published in the city in which the property or some part thereof is situated, if any part thereof is situated in a city, if not, then in some newspaper of general circulation published in the judicial district in which the property or some part thereof is situated, or in case no newspaper of general circulation is published in the city or judicial district, as the case may be, in some newspaper of general circulation published in the county in which the property or some part thereof is situated. A copy of such notice of sale shall also be posted in some conspicuous place on the property to be sold at least 20 days before date of sale, provided that where possible and where not restricted for any reason. If the property is a single-family residence the posting shall be on a door of the residence, but if not possible or restricted then the notice shall be posted in a conspicuous place on the property; however, if access is denied because a common entrance to the property is restricted by a guard gate or similar impediment, the property may be posted at that guard gate or similar impediment to any development community. Additionally, the notice of sale shall be recorded with the county recorder of the county in which the property or some part thereof is situated at least 14 days prior to the date of sale. The notice of sale shall contain the name, street address, and telephone number of the trustee or other person conducting the sale and shall contain the statement required by paragraph (3) of subdivision (c). In addition to any other description of the property, the notice shall describe the property by giving its street address, if any, or other common designation, if any; but if the property has no street address or other common designation, the notice shall contain the name and address of the beneficiary at whose request the sale is to be conducted and a statement that directions may be obtained pursuant to a written request submitted to the beneficiary within 10 days from the first publication of such notice. Directions shall be deemed reasonably sufficient to locate the property if information as to the

location of the property is given by reference to the direction and approximate distance from the nearest crossroads, frontage road, or access road. If a legal description of the property is given, the validity of the notice and the validity of the sale shall not be affected by the fact that the street address, other common designation, name and address of the beneficiary, or the directions obtained therefrom are erroneous or that the street address, other common designation, name and address of the beneficiary or directions obtained therefrom are omitted. The term newspaper of general circulation as used herein is as defined in Article 1 (commencing with Section 6000) of Chapter 1 of Division 7 of Title 1 of the Government Code.

The notice of sale shall contain a statement of the total amount of the unpaid balance of the obligation secured by the property to be sold and reasonably estimated costs, expenses, and advances at the time of the initial publication of the notice of sale; provided, that the trustee shall incur no liability for any good faith error in stating the proper amount. An inaccurate statement of such amount shall not affect the validity of any sale to a bona fide purchaser for value, nor shall the failure to post the notice of sale on a door as provided by this subdivision affect the validity of any sale to a bona fide purchaser for value.

(c) (1) The provisions of this subdivision shall only apply to deeds of trust or mortgages which contain a power of sale and which are secured by real property containing a single-family, owner-occupied residence wherein the obligation secured by the deed of trust or mortgage is contained in a contract for goods or services subject to the provisions of the Unruh Act (Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3).

(2) Except as otherwise expressly set forth in this subdivision, all other provisions of law relating to the exercise of a power of sale shall govern the exercise of such a power contained in a deed of trust or mortgage described in paragraph (1) of this subdivision.

(3) If any default of the obligation secured by a deed of trust or mortgage described in paragraph (1) of this subdivision has not been cured within 30 days after the recordation of the notice of default, the trustee or mortgagee shall mail to the trustor or mortgagor, at his or her last known address, a copy of the following statement:

YOU ARE IN DEFAULT UNDER A

_____ ,

(Deed of trust or mortgage)

DATED _____. UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A PUBLIC SALE. IF YOU NEED AN EXPLANATION OF THE NATURE OF THE PROCEEDING AGAINST YOU, YOU SHOULD CONTACT A LAWYER.

(4) All sales of real property pursuant to a power of sale contained in any deed of trust or mortgage described in paragraph (1) of this subdivision shall be held in the county where the residence is located

and shall be made to the person making the highest offer. The trustee may receive offers during the 10-day period immediately prior to the date of sale and if any such offer is accepted in writing by both the trustor or mortgagor and the beneficiary or mortgagee prior to the time set for sale, the sale shall be postponed to a date certain and, prior to which the property may be conveyed by the trustor to the person making such offer according to its terms. Any such offer is revocable until accepted. The performance of such offer following acceptance, according to its terms by a conveyance of the property to the offeror shall operate to terminate any further proceeding under the notice of sale and it shall be deemed revoked.

(5) In addition to the trustee fee pursuant to Section 2924c, the trustee or mortgagee pursuant to a deed of trust or mortgage subject to this subdivision shall be entitled to charge an additional fee of fifty dollars ($50).

(6) This subdivision shall apply only to property on which notices of default were filed on or after the effective date of this subdivision.

SEC. 4. Section 2924g of the Civil Code is amended to read:

2924g. (a) All sales of property under the power of sale contained in any deed of trust or mortgage shall be held in the county where such property or some part thereof is situated, and shall be made at auction, to the highest bidder, between the hours of 9 a.m. and 5 p.m. on any business day, Monday through Friday.

The sale shall commence at the time and location specified in the notice of sale. Any postponement shall be announced at the time and location specified in the notice of sale for commencement of such sale or pursuant to paragraph (1) of subdivision (c) herein.

If the sale of more than one parcel of real property has been scheduled for the same time and location by the same trustee, (1) any postponement of any of the sales shall be announced at the time published in the notice of sale; (2) the first sale shall commence at the time published in the notice of sale or immediately after the announcement of any postponement; and (3) each subsequent sale shall take place as soon as possible after the preceding sale has been completed.

(b) When the property consists of several known lots or parcels they shall be sold separately unless the deed of trust or mortgage provides otherwise; or when a portion of such property is claimed by a third person, and he requires it to be sold separately, such portion may be thus sold. The trustor, if present at the sale, may also, unless the deed of trust or mortgage otherwise provides, direct the order in which property shall be sold, when such property consists of such several known lots or parcels which may be sold to advantage separately, and the trustee shall follow such direction. After sufficient property has been sold to satisfy the indebtedness no more can be sold.

If the property under power of sale is in two or more counties the public auction sale of all of the property under the power of sale may take place in any one of the counties where the property or a portion

thereof is located.

(c) (1) There may be a postponement of the sale proceedings at any time prior to the completion of the sale thereof at the discretion of the trustee, upon instruction by the beneficiary to the trustee that the sale proceedings be postponed, or upon the written request of the trustor, provided the reason for the request is to permit the trustor to obtain cash sufficient to satisfy the obligation or bid at the sale and the written request identifies the source from which the funds are being obtained. The trustor shall be entitled to make one such request for postponement and any postponement made at the request of the trustor shall be for a period not to exceed one business day.

There may be a maximum of three postponements of the sale proceedings pursuant to this subdivision. In the event that the sale proceedings are postponed three times, the scheduling of any further sale proceedings shall be preceded by the giving of a new notice of sale in the manner prescribed by Section 2924f. A postponement made upon the request of the trustor shall not be deemed a postponement for purposes of this paragraph.

(2) The trustee shall postpone the sale upon the order of any court of competent jurisdiction; or by operation of law; or by the mutual agreement, whether oral or in writing, of any trustor and any beneficiary or any mortgagor and any mortgagee. Any postponement pursuant to this paragraph shall not be a postponement for purposes of determining the maximum number of postponements permitted pursuant to this subdivision.

(d) The notice of each postponement and the reason therefor shall be given by public declaration by the trustee at the time and place last appointed for sale. Such public declaration of the postponement shall also set forth the new date, time, and place of sale, which place of sale shall be the same place as originally fixed by the trustee for the sale. No other notice of postponement need be given. The trustee shall maintain records of each postponement and the reason therefor.

SEC. 5. Section 2934a of the Civil Code is amended to read:

2934a. (a) (1) The trustee under a trust deed upon real property given to secure an obligation to pay money and conferring no other duties upon the trustee than those which are incidental to the exercise of the power of sale therein conferred, may be substituted by the recording in the county in which the property is located of a substitution executed and acknowledged by all of the beneficiaries under the trust deed, or their successors in interest, and the substitution shall be effective notwithstanding any contrary provision in any trust deed executed on or after January 1, 1968.

(2) The substitution shall contain the date of recordation of the trust deed, the name of the trustor, the book and page where the trust deed is recorded and the name of the new trustee. From the time the substitution is filed for record, the new trustee shall succeed to all the powers, duties, authority, and title granted and delegated

to the trustee named in the deed of trust. A substitution may be accomplished with respect to multiple deeds of trust which are recorded in the same county in which the substitution is being recorded and which all have the same trustee and beneficiary or beneficiaries by recording a single document, complying with the requirements of this section, substituting trustees for all such deeds of trust.

(3) As an alternative, a substitution may be accomplished with respect to multiple deeds of trust which are recorded in the same county in which the substitution is being recorded and which all have the same trustee and beneficiary, or beneficiaries, by recording a single document without the necessity of (1) setting forth the names of all trustors and (2) the recording of the dates for all the deeds of trust for which a substitution of trustee is being made. However, no notice of default shall be valid unless a substitution complying with paragraph (2) has first been recorded.

(b) If the substitution is effected after a notice of default has been recorded but prior to the giving of the notice of sale, the beneficiary or beneficiaries shall cause a copy of the substitution to be mailed, prior to the recording thereof, in the manner provided in Section 2924b, to all persons to whom a copy of the notice of default would be required to be mailed by the provisions of Section 2924b, and shall also give a copy of the substitution to the trustee then of record. In those cases, the substitution shall contain an acknowledgment signed and acknowledged by the trustee then of record of a receipt of a copy, or an affidavit of personal service of a copy, or of publication of notice of it in accordance with Section 6061 of the Government Code (showing also that a copy of the substitution had been mailed to the trustee at the trustee's last known address), and an affidavit shall be attached to the substitution that notice has been given to those persons and in the manner required by this subdivision.

(c) Notwithstanding any provision of this section or any provision in any deed of trust, unless a new notice of sale containing the name, street address, and telephone number of the substituted trustee is given pursuant to Section 2924f, any sale conducted by the substituted trustee shall be void.

SEC. 6. Section 580c of the Code of Civil Procedure is amended to read:

580c. In all cases where existing deeds of trust or mortgages are judicially foreclosed, unless a different amount is set up in the mortgage or deed of trust, and in all cases of mortgages and deeds of trust executed after this act takes effect, the mortgagor or trustor may be required to pay only such amount as trustee's or attorney's fees for processing the judicial foreclosure as the court may find reasonable and also the actual cost of publishing, recording, mailing and posting notices, litigation guarantee, and litigation cost of suit.

SEC. 7. With respect to the changes to the notice of default in paragraph (1) of subdivision (b) of Section 2924c of the Civil Code made by this act, the changes shall apply only to notices of default

issued on and after July 1, 1985.

SEC. 8. The amendments to Section 2924c of the Civil Code incorporated in this act in Section 1.5 and proposed by AB 3089 are intended to notify debtors and creditors of their ability to enter into workout agreements under previously recorded notices of default. In that regard, this act shall not be construed as enlarging or diminishing the ability of debtors and creditors under existing principles of law or equity to enter into workout agreements concerning terms and conditions other than those described in the notice provision of Section 1 of AB 3089. This section shall become operative only if AB 3089 and this bill are enacted and become effective on or before January 1, 1985, each bill amends Section 2924c of the Civil Code, and this bill is enacted after AB 3089 in which case this section shall become operative on July 1, 1985.

SEC. 9. Section 1.5 of this bill incorporates amendments to Section 2924c of the Civil Code proposed by both this bill and AB 3089. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, but this bill becomes operative first, (2) each bill amends Section 2924c of the Civil Code, and (3) this bill is enacted after AB 3089, in which case Section 2924c of the Civil Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of AB 3089, at which time Section 1.5 of this bill shall become operative.

CHAPTER 1731

An act to add Section 27491.43 to the Government Code, and to add Section 10111.5 to the Insurance Code, relating to autopsies.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 27491.43 is added to the Government Code, to read:

27491.43. (a) (1) Notwithstanding any other provision of law, except as otherwise provided in this section in any case in which the coroner, before beginning an autopsy, dissection, or removal of corneal tissue, pituitary glands, or any other organ, tissue, or fluid, has received a certificate of religious belief, executed by the decedent as provided in subdivision (b), that the procedure would be contrary to his or her religious belief, the coroner shall not perform that procedure on the body of the decedent.

(2) If, before beginning the procedure, the coroner is informed by a relative or a friend of the decedent that the decedent had executed a certificate of religious belief, the coroner shall not perform the procedure, except as otherwise provided in this section, for 48 hours.

If the certificate is produced within 48 hours, the case shall be governed by this section. If the certificate is not produced within that time, the case shall be governed by the other provisions of this article.

(b) Any person, 18 years of age or older, may execute a certificate of religious belief which shall state in clear and unambiguous language that any postmortem anatomical dissection or that specified procedures would violate the religious convictions of the person. The certificate shall be signed and dated by the person in the presence of at least two witnesses. Each witness shall also sign the certificate and shall print on the certificate his or her name and residence address.

(c) Notwithstanding the existence of a certificate, the coroner may at any time perform an autopsy or any other procedure if he or she has a reasonable suspicion that the death was caused by the criminal act of another or by a contagious disease constituting a public health hazard.

(d) (1) If a certificate is produced, and if subdivision (c) does not apply, the coroner may petition the superior court, without fee, for an order authorizing an autopsy or other procedure or for an order setting aside the certificate as invalid. Notice of the proceeding shall be given to the person who produced the certificate. The proceeding shall have preference over all other cases.

(2) The court shall set aside the certificate if it finds that the certificate was not properly executed or that it does not clearly state the decedent's religious objection to the proposed procedure.

(3) The court may order an autopsy or other procedure despite a valid certificate if it finds that the cause of death is not evident, and that the interest of the public in determining the cause of death outweighs its interest in permitting the decedent and like persons fully to exercise their religious convictions.

(4) Any procedure performed pursuant to paragraph (3) shall be the least intrusive procedure consistent with the order of the court.

(5) If the petition is denied, and no stay is granted, the body of the deceased shall immediately be released to the person authorized to control its disposition.

(e) In any case in which the circumstances, manner, or cause of death is not determined because of the provisions of this section, the coroner may state on the certificate of death that an autopsy was not conducted because of the provisions of this section.

(f) A coroner shall not be liable for damages in a civil action for any act or omission taken in compliance with the provisions of this section.

SEC. 2. Section 10111.5 is added to the Insurance Code, to read:

10111.5. An insurer shall not be liable for payments claimed under an individual or group policy of life insurance if the duty to make those payments depends upon a factual determination of whether the death of the insured was an accident or a suicide and that fact cannot be established without an autopsy and the autopsy

is prohibited under Section 27491.43 of the Government Code. Insurers refusing or delaying payments in those circumstances in good faith shall not be liable for exemplary or punitive damages.

CHAPTER 1732

An act to amend Section 25159.5 of, and to add Section 25189.2 to, the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984]

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

SECTION 1. Section 25159.5 of the Health and Safety Code is amended to read:

25159.5. (a) In adopting or revising standards and regulations pursuant to this chapter, the department shall, insofar as practicable, make the standards and regulations conform with corresponding regulations adopted by the United States Environmental Protection Agency pursuant to Public Law 94-580, as amended (the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et seq.). Nothing in this section shall preclude the department from adopting standards and regulations which are more stringent or more extensive than federal regulations.

(b) Until the time when all standards and regulations which are determined necessary by the United States Environmental Protection Agency for final authorization of the state program under Public Law 94-580 have been adopted by the department and filed by the Secretary of State as effective, all regulations adopted pursuant to Public Law 94-580, as amended, are in effect in this state, except that existing state laws or regulations which are more stringent than the corresponding federal regulations are also in effect in this state.

SEC. 2. Section 25189.2 is added to the Health and Safety Code, to read:

25189.2. (a) Any person who makes any false statement or representation in any application, label, manifest, record, report, permit, or other document, filed, maintained, or used for purposes of compliance with this chapter, is liable for a civil penalty not to exceed ten thousand dollars ($10,000) for each separate violation or, for continuing violations, for each day that the violation continues.

(b) Except as provided in subdivision (c) or (d), any person who violates any provision of this chapter or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, is liable for a civil penalty not to exceed ten thousand dollars ($10,000) for each violation of a separate provision or, for continuing violations, each day that the violation continues.

(c) Any person who disposes, or causes the disposal of, any hazardous or extremely hazardous waste at a point which is not authorized according to the provisions of this chapter is liable for a civil penalty of not more than ten thousand dollars ($10,000) for each violation and may be ordered to disclose the fact of this violation or these violations to those persons as the court may direct. Each day on which the deposit remains is a separate additional violation, unless the person immediately files a report of the deposit with the department and is complying with any order concerning the deposit issued by the director or a court of competent jurisdiction for the cleanup.

(d) No person may be liable for a civil penalty imposed under this section and for a civil penalty imposed under Section 25189 for the same act or failure to act.

SEC. 3. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

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

CHAPTER 1733

An act to add Sections 5110.710, 5110.720, 5110.730, and 5110.740 to the Civil Code, relating to marital property.

[Approved by Governor September 30, 1984 Filed with Secretary of State September 30, 1984]

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

SECTION 1. Section 5110.710 is added to the Civil Code, to read:

5110.710. Subject to Sections 5110.720 to 5110.740, inclusive, married persons may by agreement or transfer, with or without consideration, do any of the following:

(a) Transmute community property to separate property of either spouse.

(b) Transmute separate property of either spouse to community property.

(c) Transmute separate property of one spouse to separate property of the other spouse.

SEC. 2. Section 5110.720 is added to the Civil Code, to read:

5110.720. A transmutation is subject to the laws governing fraudulent transfers.

SEC. 3. Section 5110.730 is added to the Civil Code, to read:

5110.730. (a) A transmutation of real or personal property is not valid unless made in writing by an express declaration that is made, joined in, consented to, or accepted by the spouse whose interest in the property is adversely affected.

(b) A transmutation of real property is not effective as to third parties without notice thereof unless recorded.

(c) This section does not apply to a gift between the spouses of clothing, wearing apparel, jewelry, or other tangible articles of a personal nature that is used solely or principally by the spouse to whom the gift is made and that is not substantial in value taking into account the circumstances of the marriage.

(d) Nothing in this section affects the law governing characterization of property in which separate property and community property are commingled or otherwise combined.

(e) This section does not apply to or affect a transmutation of property made before January 1, 1985, and the law that would otherwise be applicable to such a transmutation shall continue to apply.

SEC. 4. Section 5110.740 is added to the Civil Code, to read:

5110.740. A statement in a will of the character of property is not admissible as evidence of a transmutation of the property in any proceeding commenced before the death of the person who made the will.

CHAPTER 1734

An act to amend Section 3702.5 of the Labor Code, relating to workers' compensation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 3702.5 of the Labor Code is amended to read:

3702.5. (a) The cost of administration of the public self-insured program by the Director of Industrial Relations shall be a General Fund item. The cost of administration of the private self-insured program by the Director of Industrial Relations shall be borne by the private self-insurers through payment of certificate fees which shall be established by the director in broad ranges based on the comparative numbers of employees insured by the private self-insurers and the number of adjusting locations. The director may

assess other fees as necessary to cover the costs of special audits or services rendered to private self-insured employers. The director may assess a penalty for late filing which shall not exceed 10 percent per month, or fraction thereof, of the amount of the fee due.

(b) All revenues from fees and penalties paid by private self-insured employers shall be deposited into the Self-Insurance Plans Fund, which is hereby created for the administration of the private self-insurance program. Any unencumbered balance in subdivision (a) of Item 8350-001-001 of the Budget Act of 1983 shall be transferred to the Self-Insurance Plans Fund. The director shall annually eliminate any unused surplus in the Self-Insurance Plans Fund by reducing certificate fee assessments by an appropriate amount in the subsequent year. Moneys paid into the Self-Insurance Plans Fund for administration of the private self-insured program shall not be used by any other department or agency or for any purpose other than administration of the private self-insurance program.

SEC. 2. The sum of one million one hundred twenty-eight thousand dollars ($1,128,000) is hereby appropriated from the Self-Insurance Plans Fund to the Department of Industrial Relations for suppport of the private self-insurance program in the 1984–85 fiscal year.

SEC. 3. This act shall become operative on July 1, 1984.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to prevent assessments collected from private self-insured employers in the current fiscal year from reverting to the General Fund and being used for purposes other than the private self-insured program, it is necessary for this act to take effect immediately.

CHAPTER 1735

An act to amend Sections 1797.105, 1798.160, 1798.161, 1798.162, 1798.163, 1798.164, and 1798.165 of, to add Sections 1797.257 and 1797.258 to, and to repeal Section 1797.251 of, the Health and Safety Code, relating to medical services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 1797.105 of the Health and Safety Code is amended to read:

1797.105. (a) The authority shall receive plans for the

implementation of emergency medical services and trauma care systems from local EMS agencies.

(b) After the applicable guidelines or regulations are established by the authority, a local EMS agency may implement a local plan developed pursuant to Section 1797.250, 1797.254, 1797.257, or 1797.258 unless the authority determines that the plan does not effectively meet the needs of the persons served and is not consistent with coordinating activities in the geographical area served, or that the plan is not concordant and consistent with applicable guidelines or regulations, or both the guidelines and regulations, established by the authority.

(c) A local EMS agency may appeal a determination of the authority pursuant to subdivision (b) to the commission.

(d) In an appeal pursuant to subdivision (c), the commission may sustain the determination of the authority or overrule and permit local implementation of a plan, and the decision of the commission is final.

SEC. 2. Section 1797.251 of the Health and Safety Code is repealed.

SEC. 3. Section 1797.257 is added to the Health and Safety Code, to read:

1797.257. A local EMS agency which elects to implement a trauma care system on or after the effective date of the regulations adopted pursuant to Section 1798.161 shall develop and submit a plan for that trauma care system to the authority according to the requirements of the regulations prior to the implementation of that system.

SEC. 4. Section 1797.258 is added to the Health and Safety Code, to read:

1797.258. After the submission of an initial trauma care system plan, a local EMS agency which has implemented a trauma care system shall annually submit to the authority an updated plan which identifies all changes, if any, to be made in the trauma care system.

SEC. 5. Section 1798.160 of the Health and Safety Code is amended to read:

1798.160. Except where the context otherwise requires, the following definitions govern the construction of this article:

(a) "Trauma case" means any injured person who has been evaluated by prehospital personnel according to policies and procedures established by the local EMS agency pursuant to Section 1798.163 and who has been found to require transportation to a trauma facility.

(b) "Trauma facility" means a health facility, as defined by regulation, which is capable of treating one or more types of potentially seriously injured persons and which has been designated as part of the regional trauma care system by the local EMS agency. A facility may be a trauma facility for one or more services, as designated by the local EMS agency.

(c) "Trauma care system" means an arrangement under which

trauma cases are transported to, and treated by, the appropriate trauma facility.

SEC. 6. Section 1798.161 of the Health and Safety Code is amended to read:

1798.161. (a) The authority shall submit draft regulations specifying minimum standards for the implementation of trauma care systems to the commission on or before July 1, 1984, and shall adopt the regulations on or before July 1, 1985. These regulations shall provide specific requirements for the care of trauma cases and shall ensure that the trauma care system is fully coordinated with all elements of the existing emergency medical services system. The regulations shall be adopted as provided in Section 1799.50, and shall include, but not be limited to, all of the following:

(1) Prehospital care management guidelines for triage and transportation of trauma cases.

(2) Flow patterns of trauma cases and geographic boundaries regarding trauma and nontrauma cases.

(3) The number and type of trauma cases necessary to assure that trauma facilities will provide quality care to trauma cases referred to them.

(4) The resources and equipment needed by trauma facilities to treat trauma cases.

(5) The availability and qualifications of the health care personnel, including physicians and surgeons, treating trauma cases within a trauma facility.

(6) Data collection regarding system operation and patient outcome.

(7) Periodic performance evaluation of the trauma system and its components.

(b) The authority may grant an exception to a portion of the regulations adopted pursuant to subdivision (a) upon substantiation of need by a local EMS agency that, as defined in the regulations, compliance with that requirement would not be in the best interests of the persons served within the affected local EMS area.

SEC. 7. Section 1798.162 of the Health and Safety Code is amended to read:

1798.162. (a) A local emergency medical services agency may implement a trauma care system only if the system meets the minimum standards set forth in the regulations for implementation established by the authority and the plan required by Section 1797.257 has been submitted to, and approved by, the authority. Prior to submitting the plan for the trauma care system to the authority, a local emergency medical services agency shall hold a public hearing and shall give adequate notice of the public hearing to all hospitals and other interested parties in the area proposed to be included in the system. This subdivision does not preclude a local EMS agency from adopting trauma care system standards which are more stringent than those established by the regulations.

(b) Notwithstanding subdivision (a) or any other provision of this

article, the Santa Clara County Emergency Medical Services Agency may implement a trauma care system prior to the adoption of regulations by the authority pursuant to Section 1798.161. If the Santa Clara County Emergency Medical Services Agency implements a trauma care system pursuant to this subdivision prior to the adoption of those regulations by the authority, the agency shall prepare and submit to the authority a trauma care system plan which conforms to any regulations subsequently adopted by the authority.

SEC. 8. Section 1798.163 of the Health and Safety Code is amended to read:

1798.163. A local emergency medical services agency implementing a trauma care system shall establish policies and procedures which are concordant and consistent with the minimum standards set forth in the regulations adopted by the authority. This section does not preclude a local EMS agency from adopting trauma care system standards which are more stringent than those established by the regulations.

SEC. 9. Section 1798.164 of the Health and Safety Code is amended to read:

1798.164. A local emergency medical services agency may charge a fee to an applicant seeking initial or continuing designation as a trauma facility in an amount sufficient to cover the costs directly related to the designation of trauma facilities pursuant to Section 1798.165 and to the development of the plans prepared pursuant to Sections 1797.257 and 1797.258, and subdivision (b) of Section 1798.162.

SEC. 10. Section 1798.165 of the Health and Safety Code is amended to read:

1798.165. (a) Local emergency medical services agencies may designate trauma facilities as part of their trauma care system pursuant to the regulations promulgated by the authority.

(b) The health facility shall only be designated to provide the level of trauma care and service for which it is qualified and which is included within the system implemented by the agency.

SEC. 11. The Legislature hereby finds and declares that a general statute, within the meaning of Section 16 of Article IV of the Constitution, cannot be made applicable to the unique problems that the amendment of Section 1798.162 of the Health and Safety Code made by Section 7 of this act is intended to remedy within the County of Santa Clara, and that, therefore, this special statute is necessary.

SEC. 12. (a) Chapter 1067 of the Statutes of 1983 added Article 2.5 (commencing with Section 1798.160) to Chapter 6 of Part 1 of Division 2.5 of the Health and Safety Code to provide for regional trauma care systems. Within that article, Section 1798.164 authorized local emergency medical service agencies to impose fees to cover their costs under the program. Sections 1 to 9, inclusive, of this act make technical and other changes in the 1983 enactment but leaves the power to impose fees to cover costs intact.

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

SEC. 13. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 14. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 15. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to override a determination made by a local governmental entity that will have the effect of reducing the level of medical care provided to persons in need of trauma care, and in order to clarify and remove technical problems at the earliest possible time from the enactment authorizing the establishment of a statewide system of trauma care centers, it is necessary for this act to take effect immediately.

CHAPTER 1736

An act to amend Sections 25149.3, 25156, 25202.5, 25202.6, 25220, 25221, 25222, 25223, 25224, 25229, 25230, 25233, 25234, 25235, 25236, and 25240 of, to add Sections 25110.3, 25221.1, 25222.1, and 25351.6 to, and to repeal Section 25238 of, the Health and Safety Code, relating to hazardous substances, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984 Filed with Secretary of State September 30, 1984]

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

SECTION 1. Section 25110.3 is added to the Health and Safety Code, to read:

25110.3. "Buffer zone" means an area of land which surrounds a hazardous waste facility and on which certain land uses and activities

are restricted to protect the public health and safety and the environment from existing or potential hazards caused by the migration of hazardous waste.

SEC. 2. Section 25149.3 of the Health and Safety Code is amended to read:

25149.3. (a) Upon the request of any interested person, the department shall examine and determine whether or not the use of any property for any one of the purposes set forth in paragraph (1) of subdivision (b) of Section 25232 constitutes a significant existing or potential hazard to present or future health or safety because of the proximity of the property to an existing hazardous waste facility as defined in this article. If the department determines that a significant existing or potential hazard to present or future public health or safety exists on the property, it shall give notice and hold a public hearing. If a significant disposal of hazardous waste has occurred on that property or if the property is within 2,000 feet of a significant disposal of hazardous waste, the department shall hold this public hearing pursuant to Article 11 (commencing with Section 25220) and the director may make a designation of that property pursuant to that article. If the department determines that there is no significant existing or potential hazard to present or future public health or safety on the property, it shall so notify the person who requested the determination and the local jurisdiction.

(b) All costs incurred by the department pursuant to this section, including the costs of any hearing, shall be borne by the person making the request. The authority conferred on the department, pursuant to this section, shall be in addition to its authority with respect to the regulation of hazardous waste property and border zone property. A special account administered by the department shall be established for each request made to the department for the examination and determination specified in subdivision (a). The department shall provide the requesting person an estimate of the amount of money which would be necessary to accomplish the examination, determination, and any subsequent hearing by the department pursuant to that request. The estimated amount, which shall be paid to the department before the department undertakes any activity pursuant to subdivision (a), shall be deposited in the special account. Expenditures from this special account shall not be made in excess of the total amount of money in that special account at any time. Expenditures in excess of the initial deposit may be made only when additional money is received from the requesting person and deposited into the account.

Notwithstanding any other provision of law, the department may enter into contracts for any action taken, or to be taken, pursuant to subdivision (a). These contracts do not require approval by the Department of General Services pursuant to Article 1 (commencing with Section 14780) of Chapter 6 of Part 5.5 of Division 3 of Title 2 of the Government Code.

(c) A local jurisdiction shall not take any action with respect to the

uses of land for any of those purposes, including, but not limited to, a general plan amendment, zoning change, or the imposition of conditions on the use of property, which land is subject to an existing zoning classification which permits the uses set forth in paragraph (1) of subdivision (b) of Section 25232 for which an examination and determination has been requested pursuant to subdivision (a), solely on the basis of a health hazard due to the property's proximity to an existing hazardous waste facility, unless the department has made a determination, pursuant to subdivision (a), that those uses of the property constitute a significant existing or potential hazard to present or future public health or safety.

(d) No application for a building permit or for the use of property which is the subject of a request pursuant to subdivision (a) shall be acted upon pending a determination by the department, unless the permit or use is not for a purpose set forth in paragraph (1) of subdivision (b) of Section 25232.

The department shall act upon the request within 90 days.

(e) This section does not apply to any land or property which is more than one mile from a significant disposal of hazardous waste within an existing hazardous waste facility, as defined in this article.

SEC. 3. Section 25156 of the Health and Safety Code is amended to read:

25156. The department shall develop and adopt regulations and standards to implement Article 11 (commencing with Section 25220), including, but not limited to, regulations which specify appropriate procedural requirements for the hearings conducted pursuant to that article. The department shall seek recommendations of the hazardous waste technical advisory committee on the wording of proposed regulations.

SEC. 4. Section 25202.5 of the Health and Safety Code is amended to read:

25202.5. (a) In addition to any other condition of a hazardous waste facilities permit imposed by the department pursuant to this chapter, the department may impose a requirement for the execution and recording of a written instrument which imposes an easement, covenant, restriction, or servitude upon the present and future uses of all or part of the land on which the hazardous waste facility subject to the permit is located and on all or part of any adjacent land held by, or for the beneficial use of, the owners of the land on which the hazardous waste facility subject to the permit is located. The easement, covenant, restriction, or servitude shall be no more restrictive than needed, as determined by the department, to protect the present or future public health and safety and shall not place any restriction on any land that limits the use, modification, or expansion of an existing industrial or manufacturing facility or complex. The instrument shall be executed by all of the owners of the land and by the director, shall particularly describe the real property affected by the instrument, and shall be recorded by the owner in the county in which the land is located within 10 days of the date of

execution. The easement, covenant, restriction, or servitude shall state that the land described in the instrument has been, or will be, the site of a hazardous waste facility or is adjacent to the site of such a facility, and may impose those use restrictions as the department deems necessary to protect the present or future public health. The restrictions may include restrictions upon activities on, over, or under the land, including, but not limited to, a prohibition against building, filling, grading, excavating, or mining without the written permission of the director. A certified copy of the recorded easement, covenant, restriction, or servitude shall be sent to the department upon recordation. Notwithstanding any other provision of law, except as provided in Section 25202.6, an easement, covenant, restriction, or servitude executed pursuant to this section shall run with the land from the date of recordation and shall be binding upon all of the owners of the land, their heirs, successors, and assignees, and the agents, employees, and lessees of the owners, heirs, successors, and assignees. The easement, covenant, restriction, or servitude shall be enforceable by the department pursuant to Article 8 (commencing with Section 25180).

(b) Except as provided in subdivisions (c) and (d), any land on which is located a hazardous waste disposal facility permitted pursuant to this chapter shall be surrounded by a minimum buffer zone of 2,000 feet between the facility and the outer boundary of the buffer zone. The department may impose an easement, covenant, restriction, or servitude, or any combination thereof, as appropriate, on the buffer zone pursuant to subdivision (a). If the department determines that a buffer zone of more than 2,000 feet is necessary to protect the present and future public health and safety, the department may increase the buffer zone by restricting the disposal of hazardous waste at that facility to land surrounded by a larger buffer zone.

(c) Subdivision (b) does not apply to any hazardous waste property, as defined in paragraph (1) of subdivision (a) of Section 25117.3, which was actually and lawfully used for the disposal of hazardous waste on August 6, 1980.

(d) If the owner of a hazardous waste disposal facility proves to the satisfaction of the department that a buffer zone of less than 2,000 feet is sufficient to protect the present and future public health and safety, the department may allow the disposal of hazardous waste onto land surrounded by a buffer zone of less than 2,000 feet.

SEC. 5. Section 25202.6 of the Health and Safety Code is amended to read:

25202.6. The owner of land subject to an easement, covenant, restriction, or servitude, required by the department pursuant to Section 25202.5, may make a written request of the department to remove the easement, covenant, restriction, or servitude. Upon receipt of such a request and supporting material, the department shall promptly review the need for the easement, covenant, restriction, or servitude and, when appropriate, and after a public

hearing, shall agree to modify or remove the easement, covenant, restriction, or servitude to make certain that it continues to be no more restrictive than necessary to protect the public health and safety. When the department agrees to modify or remove such an easement, covenant, restriction, or servitude, the director and all of the owners of the land shall execute an instrument that reflects this agreement, shall particularly describe the real property affected by the instrument, and the owner shall record the instrument in the county in which the land is located within 10 days of the date of execution.

SEC. 6. Section 25220 of the Health and Safety Code is amended to read:

25220. (a) For purposes of this article, unless the context clearly requires a different meaning:

(1) "Determination" means a decision by the department as to whether land should be designated as hazardous waste property or border zone property and which is reached after an analysis and an evaluation of the information obtained by the department.

(2) "Designation" means imposition of the requirements specified in Section 25230 after a determination, a public hearing, and a determination by the director has occurred pursuant to Section 25229.

(b) Whenever there is reasonable cause for the department to believe that any land may be a hazardous waste property or border zone property, the department may, by certified mail, request any person who owns, leases, or occupies the land, or any other person who has information relating to the land, to provide any or all of the following information:

(1) A description of the present use of the land.

(2) The types and volumes of hazardous waste or extremely hazardous waste contained therein or thereon.

(3) The date or dates the hazardous waste or extremely hazardous waste was deposited into or onto the land.

(4) A map or maps of the property which they own and which contains or overlies hazardous waste or extremely hazardous waste, drawn to a scale of not more than 200 feet to the inch, which shows the area or areas where the hazardous waste or extremely hazardous waste is contained or was deposited. The provision of a map pursuant to this subdivision shall not be required if the respondent to the request asserts in writing that the respondent has no knowledge or insufficient knowledge of the existence or location of the wastes to comply with this subdivision.

(5) Any other information which relates to the disposal of hazardous waste on or within 2,000 feet of the property or the potential for the migration of those wastes.

(c) Any person who is requested to provide information pursuant to subdivision (b) shall submit the information to the department within 90 calendar days of receipt of the request.

SEC. 7. Section 25221 of the Health and Safety Code is amended

to read:

25221. (a) Any person as owner, lessor, or lessee who (1) knows, or has probable cause to believe, that a significant disposal of hazardous waste has occurred on, under, or into the land which he or she owns or leases or that the land is within 2,000 feet of a significant disposal of hazardous waste, and (2) intends to construct or allow the construction on that land of a building or structure to be used for a purpose which is described in subdivision (b) of Section 25232 within one year, shall apply to the department prior to construction for a determination as to whether the land should be designated a hazardous waste property or a border zone property pursuant to Section 25229.

The addition of rooms or living space to an existing single-family dwelling or other minor repairs or improvements to residential property which do not change the use of the property or increase the population density does not constitute the construction of a building or structure for purposes of this subdivision.

(b) Any person who, as owner, lessor, or lessee, knows or has probable cause to believe that land which he or she owns or leases is a hazardous waste property or a border zone property, may apply to the department for a determination as to whether the land should be designated a hazardous waste property or a border zone property pursuant to Section 25229.

(c) If a city or county knows or has probable cause to believe that any land within its jurisdiction is a hazardous waste property or a border zone property, the city or county may apply to the department for a determination as to whether that land should be designated a hazardous waste property or a border zone property pursuant to Section 25229.

(d) Subdivisions (a), (b), and (c) do not apply to any land on which a determination has previously been made pursuant to Section 25229 unless either of the following has occurred since that determination:

(1) A significant new disposal of hazardous waste has occurred on, under, or into the land.

(2) Significant new information about past disposal of hazardous waste on, or within 2,000 feet of, the land becomes known to the owner, lessor, or lessee of the land or to the city or county.

SEC. 8. Section 25221.1 is added to the Health and Safety Code, to read:

25221.1. Whenever the department receives an application pursuant to Section 25221, it may request information pursuant to Section 25220 to determine whether the land should be designated as hazardous waste property or border zone property. Upon evaluating all pertinent available information, the department may do any one or more of the following:

(a) Issue a statement that, based on existing documents and other information available to the department, there is no currently known hazard.

(b) Recommend to local land use authorities that they place a moratorium on any new land uses specified in paragraph (1) of subdivision (a) of Section 25232, if the department suspects that the land is hazardous waste property, or a moratorium on the construction or placement of any building or structure which is intended to be used for any of the purposes specified in paragraph (1) of subdivision (b) of Section 25232, if the department suspects that the land is border zone property.

(c) Collect additional information, including sampling, monitoring, and analytical data for the purpose of making a determination as to whether the land should be designated as hazardous waste property or border zone property pursuant to Section 25229.

(d) Make a determination as to whether the land should be designated as hazardous waste property or border zone property pursuant to Section 25229.

(e) Enter into an agreement pursuant to Section 25222.1.

SEC. 9. Section 25222 of the Health and Safety Code is amended to read:

25222. (a) In any case where the department has obtained information which shows that a significant disposal of hazardous wastes has occurred on, under, or in land and that the disposal creates a significant existing or potential hazard to present or future public health or safety, the department may consider designating the affected land as hazardous waste property or border zone property.

Whenever the department considers designating land as a hazardous waste property or a border zone property, it shall issue and cause to be served upon the owner of the land, and the legislative body of the city or county in whose jurisdiction the land is located, a notice of a hearing. The notice shall contain (1) a statement that the land is under consideration for designation as a hazardous waste property or a border zone property; (2) a summary of the reasons for that designation and what significant existing or potential health hazards are believed to exist; (3) notice of the time, date, and place of the hearing, and any policy regarding continuance of the hearing; and (4) a form to acknowledge receipt of the notice.

(b) Service of the notice of hearing may be made in any manner permitted for the service of summons in civil actions, or by mailing a copy of the notice of hearing by first-class mail or airmail, postage prepaid to the person to be served, together with two copies of the notice of service and acknowledgment specified in subdivision (d) and a return envelope, postage prepaid, addressed to the department.

(c) The notice of service specified in subdivision (b) shall be in substantially the following form:

NOTICE OF SERVICE

To: (Here state the name of the person to be served.)

The accompanying notice of hearing is served pursuant to Section 25222 of the California Health and Safety Code. Failure to complete this form and return it to the sender within 20 days may subject you, or the party on whose behalf you are being served, to liability for the payment of any expenses incurred in serving the notice of hearing upon you in any other manner permitted by law. If you are served on behalf of a corporation, unincorporated association, including a partnership, or other entity, this form must be signed in the name of that entity by you or by a person authorized to receive service of process on behalf of that entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. Section 25222 provides that the accompanying notice of hearing is deemed served on the date of execution of an acknowledgment of receipt of notice of hearing.

_____

(Signature of Sender)

ACKNOWLEDGMENT OF RECEIPT OF NOTICE OF HEARING

This acknowledges receipt on (insert date) of a copy of the notice of hearing.

Date: _____

(Date this acknowledgment is executed)

_____

(Signature of person acknowledging receipt, with title if acknowledgment is made on behalf of another person)

(d) Service of a notice of hearing pursuant to this section is deemed complete on the date a written acknowledgment of receipt of notice is executed, if the acknowledgment thereafter is returned to the department.

(e) If the person to whom a copy of the notice of hearing is mailed pursuant to this section fails to complete and return the acknowledgment form set forth in subdivision (b) within 20 days from the date of that mailing, the party to whom the notice of hearing was mailed is liable for reasonable expenses thereafter incurred in serving or attempting to serve the party by any other method permitted by this section. The department may bring a single action to recover all of these expenses in any court of competent jurisdiction and, except for good cause shown, the court upon motion, with or without notice to that person, shall award the department these expenses.

SEC. 10. Section 25222.1 is added to the Health and Safety Code, to read:

25222.1. (a) Notwithstanding Sections 25222, 25229, 25232, and 25233, any person may enter into an agreement with the department designating that person's property, or a portion thereof, as hazardous waste property or border zone property and provide, in the agreement, for restricting specified uses of the property, as determined by all parties to the agreement. Except as otherwise provided in this article, the agreement is irrevocable and shall be recorded by the owner, pursuant to Section 25230, as a hazardous waste easement, covenant, restriction, or servitude, or any combination thereof, as appropriate, upon the present and future uses of the land. That person shall bear all costs incurred in designating that person's property, or a portion thereof, as hazardous waste property or border zone property pursuant to this subdivision.

(b) By entering into this agreement with respect to a portion of a property, the department is not precluded from taking action to designate the remainder of the property as hazardous waste or border zone property.

SEC. 11. Section 25223 of the Health and Safety Code is amended to read:

25223. Public notice of any hearing conducted pursuant to Section 25222, or of any agreement proposed to be entered into pursuant to Section 25222.1, shall be provided by the department at least 30 days before the hearing or execution of the agreement. The notice shall be given by publication once in a newspaper of general circulation published and circulated in the locale or, if there is none, by posting the notice in at least three public places in the locale. In the case of a proposed agreement, the department shall also give notice to the city or county in whose jurisdiction the property is located. Public comment on any proposed agreement pursuant to Section 25222.1 shall be submitted to the department in writing.

SEC. 12. Section 25224 of the Health and Safety Code is amended to read:

25224. The hearing shall be held before the director, or any agent or agency designated by the director for that purpose, not less than 30 days or more than 90 days after the notice. The department may delay the hearing upon request of any interested person.

SEC. 13. Section 25229 of the Health and Safety Code is amended to read:

25229. (a) If, after the hearing, the director determines that the subject land should not be designated a hazardous waste property or border zone property, the director shall issue a decision in writing and serve it in the manner provided in subdivision (c).

(b) If, after the hearing, the director determines, upon a preponderance of the evidence, including any evidence developed at any time prior to the hearing, that the land should be designated a hazardous waste property or a border zone property, the director shall issue a decision in writing which shall identify the subject land,

or portion thereof, by street address, assessor's parcel number, or legal description and the name of the owner of record, contain findings of fact based upon the issues presented, including the reasons for this designation, the substances on, under, or in the land, and the significant existing or potential hazards to present or future public health and safety, and order every owner of the designated land to take all of the following actions:

(1) Execute before a notary a written instrument which imposes an easement, covenant, restriction, or servitude, or any combination thereof, as appropriate, upon the present and future uses of the land pursuant to Section 25230. The written instrument shall also include a copy of the director's decision.

(2) Return the executed instrument to the director within 30 days after the decision is delivered or mailed. Within 10 days after receiving the instrument, the director shall execute the written instrument and return the instrument to the owner.

(3) Record the written instrument pursuant to Section 25230 within 10 days after receiving the written instrument executed by the director, as specified in paragraph (2).

(4) Return the recorded written instrument to the director within 10 days after the owner records the instrument, as specified in paragraph (3).

(c) Copies of the determination shall be delivered or sent by certified mail to the owner of the property, the legislative body of the city or county in whose jurisdiction the land is located, and any other persons who were served pursuant to Section 25222 or who were permitted to intervene in the proceeding pursuant to Section 25226.

(d) Failure or refusal to comply with any order issued pursuant to this section shall be treated in the manner provided by Section 11525 of the Government Code.

SEC. 14. Section 25230 of the Health and Safety Code is amended to read:

25230. (a) Upon a determination that land is hazardous waste property or border zone property pursuant to Section 25229, the director shall notify the owner of the property and the legislative body of the city or county in whose jurisdiction the land is located and any other persons who were permitted to intervene in the proceeding, and shall issue orders to every owner of the land requiring all of the following:

(1) The notarized execution and recordation of a written instrument which imposes an easement, covenant, restriction, or servitude, or combination thereof, as appropriate, upon the present and future uses of all or part of the land which has been designated a hazardous waste property or a border zone property as provided by Section 25232, and which provides that removal of the easement, covenant, restriction, or servitude, or any combination thereof, as appropriate, shall be in accordance with Section 25234. The easement, covenant, restriction, or servitude, or any combination thereof, as appropriate, shall be executed by all the owners of the

land and by the director, shall particularly describe the real property affected by the instrument, and, if applicable, the location of the easement, covenant, restriction, or servitude, or any combination thereof, as appropriate, on the real property. The easement, covenant, restriction, or servitude, or any combination thereof, as appropriate, shall be recorded with the recorder of the county in which the land is located within 10 days after the instrument, as executed by the director, is received by the owner and shall be indexed by the county recorder in the grantor index in the name of the record title owner of the real property and in the grantee index in the name of the department. The easement, covenant, restriction, or servitude, or any combination thereof, as appropriate, shall state that the land described in the instrument is subject to a hazardous waste easement, covenant, restriction, or servitude, or any combination thereof, as appropriate. Notwithstanding any other provision of law, an easement, covenant, restriction, or servitude, or any combination thereof, as appropriate, executed pursuant to this section shall run with the land from the date of recordation and shall be binding upon all of the owners of the land, their heirs, successors, and assignees, and the agents, employees, or lessees of the owners, heirs, successors, and assignees, unless it is removed pursuant to Section 25234. The easement, covenant, restriction, or servitude, or any combination thereof, as appropriate, shall be enforceable by the department pursuant to Article 8 (commencing with Section 25180).

(2) The execution and delivery of a written instrument to accompany all purchase, lease, or rental agreements relating to the land which has been designated a hazardous waste property or a border zone property. The instrument shall be prepared by the owner or lessor of the land and shall contain the following statement:

"The land described herein contains hazardous waste or is within 2,000 feet of land that contains hazardous waste. This condition renders the land and the owner, lessee, or other possessor of the land subject to the requirements, restrictions, provisions, and liabilities contained in Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code. This statement is not a declaration that a hazard exists."

(b) In any case where the department has made reasonable efforts to obtain execution of the easement, covenant, restriction, or servitude, or any combination thereof, as appropriate, and the owner or owners have failed or refused to execute it, the department may apply to the court for an order imposing the easement, covenant, restriction, or servitude, or any combination thereof, as appropriate. The issued order shall be recorded in the same manner as an executed instrument, as specified in paragraph (1) of subdivision (a).

(c) Any hazardous waste easement, covenant, restriction, or servitude, or any combination thereof, as appropriate, executed pursuant to this section shall be exclusively for the purpose of protecting the public health and safety and shall convey no interest in real or other property to the state. Notwithstanding any other

provision of law, any easement, covenant, restriction, or servitude, or any combination thereof, as appropriate, held by the department shall not be sold or otherwise transferred to another person.

SEC. 15. Section 25233 of the Health and Safety Code is amended to read:

25233. (a) Any aggrieved person may apply to the department for a written variance from the requirements set forth in subdivision (a) or (b) of Section 25232. Any application shall contain sufficient evidence for the department to issue a notice for a hearing. The notice shall contain (1) a statement that a hearing is pending on the land or that the land has been designated a hazardous waste property or a border zone property and (2) a statement of who is applying for a variance, the proposed variance, and a statement of the reasons in support of the granting of a variance. The procedures for the conducting of this hearing shall be those set forth in this article. No person shall make a subsequent application pursuant to this section within 18 months of a final decision on an application by the department.

(b) The applicant shall have the burden of proving at the hearing that the variance will not cause or allow any of the following effects associated with hazardous waste or extremely hazardous waste:

(1) The creation or increase of significant present or future hazards to public health.

(2) Any significant diminution of the ability to mitigate any significant potential or actual hazard to public health.

(3) Any long-term increase in the number of humans or animals exposed to significant hazards which affect the health, well-being, or safety of the public.

(c) If, upon the preponderance of the testimony taken, the director is of the opinion that the variance should be granted, the director shall issue and cause to be served his or her decision and findings of fact on the owner of the land, the legislative body of the city or county in whose jurisdiction the land is located, and upon any other persons who were permitted to intervene in the proceedings. The findings of fact shall include the exact nature of the proposed variance and the reasons in support of the granting of the variance.

(d) If the director is of the opinion that the variance should not be granted, the director shall issue and cause to be served his or her findings of fact in support of the denial on the parties mentioned in subdivision (c).

(e) The department shall record within 10 days any final decision made by the director pursuant to this section as provided in Section 25235.

(f) A decision of the director made after a hearing held pursuant to this section shall be reviewable pursuant to Section 1094.5 of the Code of Civil Procedure and shall be upheld if the court finds that it is supported by substantial evidence.

SEC. 16. Section 25234 of the Health and Safety Code is amended to read:

25234. (a) Any aggrieved person may apply to the department to remove a designation that the land is a hazardous waste property or a border zone property on the grounds that the waste no longer creates a significant existing or potential hazard to present or future public health or safety. No person shall make a subsequent application pursuant to this section within 12 months of a final decision on an application by the department. Any application shall contain sufficient evidence for the department to make a finding upon any or all of the following grounds:

(1) The hazardous waste which caused the land to be designated has since been removed or altered in a manner which precludes any significant existing or potential hazard to present or future public health.

(2) New scientific evidence is available since the designation of the land or the making of any previous application pursuant to this section, concerning either of the following:

(A) The nature of the hazardous waste which caused the land to be designated.

(B) The geology or other physical environmental characteristics of the designated land.

(b) Any aggrieved person may appeal a determination of the department made pursuant to subdivision (a) by submitting a request for a hearing to the director. The request shall be mailed by certified mail not later than 30 days after the date of the mailing of the department's decision on the application.

(c) Upon receipt of a timely appeal, the director shall give notice of a hearing pursuant to the procedures set forth in this article.

(d) The department shall record within 10 days any new and final determination made by the department pursuant to this section as provided in Section 25235.

(e) A determination made by the department, after a hearing held pursuant to this section, shall be reviewable pursuant to Section 1094.5 of the Code of Civil Procedure and shall be upheld if the court finds that it is supported by substantial evidence.

(f) Whenever there is a final determination pursuant to this section removing the designation of a hazardous waste property or a border zone property, the easement, covenant, restriction, or servitude imposed on the land created by Section 25230 shall automatically terminate. The department shall record or cause to be recorded within 10 days a termination of the easement, covenant, restriction, or servitude which shall particularly describe the real property subject to the easement, covenant, restriction, or servitude and which shall be indexed by the recorder in the grantor index in the name of the record title owner of the real property subject to the easement, covenant, restriction, or servitude, and in the grantee index in the name of the department.

SEC. 17. Section 25235 of the Health and Safety Code is amended to read:

25235. The department shall record within 10 days any final

designation made pursuant to Section 25230 with the county recorder of the county in which the property is located. Any recordation made pursuant to this article or Section 25202.5 shall include the street address, assessor's parcel number, or legal description of each parcel affected and the name of the owner thereof, and the recordation shall be recorded by the recorder in the grantor index in the name of the record title owner of the real property and in the grantee index in the name of the department.

SEC. 18. Section 25236 of the Health and Safety Code is amended to read:

25236. (a) Prior to, or simultaneously with, utilizing the provisions of this article, the department shall diligently pursue feasible civil and criminal actions against any operator or other responsible party who violates any provision of this chapter or Chapter 6.8 (commencing with Section 25300) and the regulations promulgated under those chapters. However, nothing in this chapter shall be construed as restricting or diminishing any remedy provided by law to the owner or possessor of any land which is affected by hazardous waste on or near the land against any person who produced the waste or against any other person who was responsible for the condition affecting the property.

(b) A designation by the department pursuant to Section 25230 shall constitute a land use restriction. Except as specifically provided in this chapter, nothing in this chapter shall diminish or limit the authority of any city or county to approve or disapprove proposed land uses. Nothing in this chapter shall be construed to require a local government to permit a particular land use, including, but not limited to, commercial, industrial, agricultural, or other nonresidential use, on land which has been designated hazardous waste property or border zone property pursuant to Section 25230.

SEC. 19. Section 25238 of the Health and Safety Code is repealed.

SEC. 20. Section 25240 of the Health and Safety Code is amended to read:

25240. An assessor shall consider any restrictive easement, covenant, restriction, or servitude adopted pursuant to Section 25202.5 or any easement, covenant, restriction, or servitude imposed pursuant to Section 25229 as an enforceable easement, covenant, restriction, or servitude subject to Section 402.1 of the Revenue and Taxation Code and shall appropriately reassess any land, the use of which has been so restricted, at the lien date following the adoption or imposition of the easement, covenant, restriction, or servitude.

SEC. 21. Section 25351.6 is added to the Health and Safety Code, to read:

25351.6. (a) On or before December 1, 1984, the department shall prepare a plan for the expeditious implementation of the Hazardous Substance Cleanup Bond Act of 1984 (Article 7.5 (commencing with Section 25385)) for approval by the Secretary of Health and Welfare. The Secretary of Health and Welfare shall, after approving the plan, transmit this plan to the Legislature no later than

February 1, 1985. The plan shall include, but not be limited to, all of the following procedures:

(1) Procedures required for the development and adoption of final remedial action plans by the department and regional water quality control boards.

(2) Procedures for the submittal by the department of bond act funding requests for legislative appropriation and for authorization by the Hazardous Substance Cleanup Committee.

(3) Procedures for selling bonds or for paying loans from the General Fund from bond sales for the purposes provided for in the bond act.

(4) Procedures required for the accounting and fiscal management of funds provided to the department by the bond act.

(5) Procedures, including a schedule of activities, for the execution of contracts by the department for site characterizations, feasibility studies, site designs, and removal and remedial actions.

(6) A hiring schedule which will assure implementation of the bond act.

(b) There is hereby established the Hazardous Substance Cleanup Bond Act Implementation Committee to provide advice to the department concerning the implementation and carrying out of the bond act. The committee shall consist of representatives of the Governor, the Department of Finance, the Treasurer, the Controller, the Health and Welfare Agency, the Secretary of Environmental Affairs, and the department. The Governor may appoint representatives of other state agencies, the private sector, and the public, as the Governor deems appropriate. The representative of the department is the chairperson of the committee.

(c) The Treasurer shall give priority to scheduling the sale of bonds authorized by the bond act if the Treasurer determines that this action will not impair the credit of the state.

(d) Notwithstanding Section 16304 of the Government Code, the funds deposited in the Hazardous Substance Cleanup Fund are available, upon appropriation by the Legislature, for encumbrance without regard to fiscal years.

(e) If the voters do not adopt the Hazardous Substance Cleanup Bond Act of 1984, as set forth in Section 18 of Chapter 376 of the Statutes of 1984, at the November 6, 1984, general election, this section shall be repealed as of that date.

SEC. 22. The Legislature hereby finds and declares that it is in the best interest of the people of the state that the Hazardous Substance Cleanup Bond Act of 1984 be implemented efficiently and expeditiously upon its adoption by the electorate.

The Legislature also finds that implementation can only be effected by many state agencies cooperating and coordinating their respective roles by giving this matter a high priority and that it is the concern and responsibility of the state to establish procedures for administering the Hazardous Substance Cleanup Bond Act of 1984 in

advance of its adoption by the electorate.

SEC. 23. The sum of eight hundred thousand dollars ($800,000) is hereby appropriated to the State Department of Health Services from the Hazardous Substance Account for the purposes of carrying out Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code, including, but not limited to, Section 25351.6 of the Health and Safety Code.

SEC. 24. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act, except Section 21, shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 25. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 26. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Due to the urgent need to clean up and identify hazardous waste sites and hazardous substances release sites, because of the danger to the public health and the environment caused by the chemicals within these sites, it is necessary that this act take effect immediately.

CHAPTER 1737

An act to amend Sections 15433 and 27491.46 of the Government Code, relating to health.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 15433 of the Government Code is amended to read:

15433. The authority shall consist of nine members, including the State Treasurer, who shall serve as chairman, the State Controller, the Director of Finance, two members appointed by the Senate Rules Committee, two members appointed by the Speaker of the Assembly, and two members appointed by the Governor subject to confirmation by a majority vote of the Senate. Of the members appointed by the Senate Rules Committee, one member shall be a

licensed physician and surgeon, and one shall serve or have served in an executive capacity to a health facility. Of the members appointed by the Speaker of the Assembly, one member shall be a person qualified by training and experience in the field of investment or finance, and one member shall be representative of the general public. The members appointed by the Governor shall be representative of the general public. The terms of appointed members shall be four years, expiring on March 31. Each member shall hold office for the term of his or her appointment and shall continue to serve until a successor shall have been appointed and qualified. Any vacancy among the members shall be filled by appointment for the unexpired term only. A member of the authority shall be eligible for reappointment.

Members of the authority shall serve without compensation, but the authority may reimburse its members for necessary expenses incurred in the discharge of their duties.

SEC. 2. Section 27491.46 of the Government Code is amended to read:

27491.46. (a) The coroner shall have the right to retain pituitary glands solely for transmission to a university, for use in research or the advancement of medical science, in those cases in which the coroner has performed an autopsy pursuant to this chapter, and during a 48-hour period following such autopsy the body has not been claimed and the coroner has not been informed of any relatives of the decedent.

(b) In the course of any autopsy performed by the coroner, the coroner may remove the pituitary gland from the body for transmittal to any public agency for use in manufacturing a hormone necessary for the physical growth of persons who are, or may become, hypopituitary dwarfs, if the coroner has no knowledge of objection to the removal and release of the pituitary gland having been made by the decedent or any other person specified in Section 7151.5 of the Health and Safety Code. Neither the coroner nor the medical examiner authorizing the removal of the pituitary gland, nor any hospital, medical center, tissue bank, storage facility, or person acting upon the request, order, or direction of the coroner or medical examiner in the removal of the pituitary gland pursuant to this section, shall incur civil liability for the removal of the pituitary gland in an action brought by any person who did not object prior to the removal of the pituitary gland, nor be subject to criminal prosecution for removal of the pituitary gland pursuant to the authority of this section.

Nothing in this subdivision shall supersede the terms of any gift made pursuant to Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code.

CHAPTER 1738

An act to amend Section 1372 of the Financial Code, and to amend Sections 31453, 31459, 31596, 31601.1, 31607, and 53216.5 of, to add Sections 31594, 31495, 31495.1, 31596.1, 53216.1, and 53216.6 to, and to repeal Sections 31594, 31595, 31595.1, 31595.2, 31595.3, 31595.4, 31595.5, 31595.6, 31596.1, 31601, 31602, 31603, 31604, 31604.1, 31605, 31606, 53216.1, 53216.2, and 53216.6 of, the Government Code, and to amend Sections 12364 and 12366 of, and to repeal Sections 12365, 12365.5, and 12365.9 of, the Public Utilities Code, relating to public retirement systems, and declaring the urgency thereof to take effect immediately.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 1372 of the Financial Code is amended to read:

1372. The provisions of this chapter govern the investment of funds by commercial banks but wherever by any law of this state it is now provided that the moneys of any pension fund, retirement plan, trust fund, or the moneys of any special fund the investment of which is governed by law, or the funds of any political subdivision or public corporation may or shall be invested in securities which are a legal investment for savings banks, then such law shall be deemed to authorize or require, as the case may be, that such moneys be invested in securities in which savings banks were authorized to invest their funds by the provisions of the Bank Act as it read prior to January 1, 1949, other than paragraph (f) of subdivision 5 of Section 61 of said act, or in bonds, debentures, and notes legal for investment for savings banks in the State of New York or the State of Massachusetts as of the time the investment is made or in securities in which commercial banks are authorized to invest their funds by the provisions of Sections 1352 to 1366, inclusive.

SEC. 2. Section 31453 of the Government Code, as amended by Chapter 591 of the Statutes of 1984, is amended to read:

31453. An actuarial valuation shall be made within one year after the date on which any system established under this chapter becomes effective, and thereafter at intervals not to exceed three years. The valuation shall be conducted under the supervision of an actuary and shall cover the mortality, service, and compensation experience of the members and beneficiaries, and shall evaluate the assets and liabilities of the retirement fund. Upon the basis of the investigation, valuation, and recommendation of the actuary, the board shall, at least 45 days prior to the beginning of the succeeding fiscal year, recommend to the board of supervisors such changes in the rates of interest, in the rates of contributions of members, and in

county and district appropriations as are necessary. With respect to the rates of interest to be credited to members and to the county or district, the board may, in its sound discretion, recommend a rate which is higher or lower than the interest assumption rate established by the actuarial survey. No adjustment shall be included in the new rates for time prior to the effective date of the revision.

SEC. 3. Section 31459 of the Government Code is amended to read:

31459. (a) In a county in which a board of investments has been established pursuant to Section 31520.2:

(1) As used in Sections 31453, 31453.5, 31454, 31454.1, 31454.5, 31472, 31510.1, 31510.3, 31510.6, 31528, 31588.1, 31589.1, 31591, and the first paragraph of Section 31592.2, Sections 31592.3, 31594, 31595.1, 31595.9, 31596, 31596.1, 31601.1, 31607, 31625, 31784, and 31872, "board" means board of investment.

(2) Sections 31510, 31510.4, 31510.8, 31522, 31523, 31524, 31525, 31529, 31529.5, 31595, 31680, and 31680.1 apply to both the board of retirement and board of investment, and "board" means both "board of retirement" and "board of investment."

(b) In Article 17 (commencing with Section 31880) of this chapter, "board" means the Board of Administration of the Public Employees' Retirement System.

(c) In all other cases, "board" means the board of retirement.

SEC. 4. Section 31594 of the Government Code is repealed.

SEC. 5. Section 31594 is added to the Government Code, to read:

31594. It is the intent of the Legislature, consistent with the mandate of the voters in passing Proposition 21 at the June 5, 1984, Primary Election, to allow the board of any retirement system governed by this chapter to invest in any form or type of investment deemed prudent by the board pursuant to the requirements of Section 31595. It is also the intent of the Legislature to repeal, or amend as appropriate, certain statutory provisions, whether substantive or procedural in nature, that restrict the form, type, or amount of investments that would otherwise be considered prudent under the terms of that section. This will increase the flexibility and range of investment choice available to these retirement systems, while ensuring protection of the interests of their beneficiaries.

SEC. 6. Section 31595 of the Government Code is repealed.

SEC. 7. Section 31595 is added to the Government Code, to read:

31595. The board has exclusive control of the investment of the employees retirement fund. The assets of a public pension or retirement system are trust funds and shall be held for the exclusive purposes of providing benefits to participants in the pension or retirement system and their beneficiaries and defraying reasonable expenses of administering the system. Except as otherwise expressly restricted by the California Constitution and by law, the board may, in its discretion, invest, or delegate the authority to invest, the assets of the fund through the purchase, holding, or sale of any form or type of investment, financial instrument, or financial transaction when

prudent in the informed opinion of the board.

The board and its officers and employees shall discharge their duties with respect to the system:

(a) Solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system.

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

(c) Shall diversify the investments of the system so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly prudent not to do so.

SEC. 8. Section 31595.1 of the Government Code is repealed.

SEC. 9. Section 31595.1 is added to the Government Code, to read:

31595.1. Subject to the approval of the board, the county treasurer has control and shall safely keep the moneys of the retirement system. He may invest and reinvest the moneys, and may from time to time sell any securities belonging to the system and may invest and reinvest the proceeds therefrom. An investment in or sale of securities shall not be made except upon the authorization of the board. With the approval of the board, the county treasurer may delegate some or all of the powers conferred by this section.

SEC. 10. Section 31595.2 of the Government Code is repealed.

SEC. 11. Section 31595.3 of the Government Code is repealed.

SEC. 12. Section 31595.4 of the Government Code is repealed.

SEC. 13. Section 31595.5 of the Government Code is repealed.

SEC. 14. Section 31595.6 of the Government Code is repealed.

SEC. 15. Section 31596 of the Government Code, as amended by Chapter 591 of the Statutes of 1984, is amended to read:

31596. (a) When securities belonging to or held for the retirement association are sold, the county treasurer shall deliver the securities to the purchaser upon receiving the proceeds, and may execute any and all documents necessary to transfer title. The duties imposed upon the county treasurer by this article are a part of his official duties, for the faithful performance of which he is liable on his official bond.

(b) With the approval of the board, the treasurer may authorize a trust company or a trust department of any state or national bank authorized to conduct the business of a trust company in this state or the Federal Reserve Bank of San Francisco or any branch thereof within this state, to act as custodian of any securities owned by the retirement association. The duties imposed by subdivision (a) upon the county treasurer may be included in any such agreement for custodial services. Any such bank or trust company may be authorized to collect the income from the securities for the treasurer and deposit the proceeds in an account of the treasurer for the

retirement association.

SEC. 16. Section 31596.1 of the Government Code is repealed.

SEC. 17. Section 31596.1 is added to the Government Code, to read:

31596.1. The expenses of investing its moneys shall be borne solely by the system. The following types of expenses shall not be considered a cost of administration of the retirement system, but shall be considered as a reduction in earnings from those investments or a charge against the assets of the retirement system as determined by the board:

(a) The costs, as approved by the board, of actuarial valuations and services rendered pursuant to Section 31453.

(b) The compensation of any bank or trust company performing custodial services.

(c) When an investment is made in deeds of trust and mortgages, the fees stipulated in any agreement entered into with a bank or mortgate service company to service such deeds of trust and mortgages.

(d) Any fees stipulated in an agreement entered into with investment counsel for consulting or management services in connection with the administration of the board's investment program, including the system's participation in any form of investment pools managed by a third party or parties.

(e) The compensation to an attorney for services rendered pursuant to Section 31607.

SEC. 18. Section 31601 of the Government Code is repealed.

SEC. 19. Section 31601.1 of the Government Code is amended to read:

31601.1. In counties having a board of investments pursuant to Section 31520.2, no investment shall be made in real property unless it is approved by six votes of the board or, where a county board of supervisors or a county board of education has a material interest in the property unless it is approved by nine votes of the board.

SEC. 20. Section 31602 of the Government Code is repealed.

SEC. 21. Section 31603 of the Government Code is repealed.

SEC. 22. Section 31604 of the Government Code is repealed.

SEC. 23. Section 31604.1 of the Government Code is repealed.

SEC. 24. Section 31605 of the Government Code is repealed.

SEC. 25. Section 31606 of the Government Code is repealed.

SEC. 26. Section 31607 of the Government Code is amended to read:

31607. To assist in carrying out its investment powers and duties the board may employ an attorney in private practice.

SEC. 27. Section 53216.1 of the Government Code is repealed.

SEC. 28. Section 53216.1 is added to the Government Code, to read:

53216.1. It is the intent of the Legislature, consistent with the mandate of the voters in passing Proposition 21 at the June 5, 1984, Primary Election, to allow the board of any retirement system

governed by this article to invest in any form or type of investment deemed prudent by the board pursuant to the requirements of Sections 53216.5 and 53216.6. It is also the intent of the Legislature to repeal, or amend as appropriate, certain statutory provisions, whether substantive or procedural in nature, that restrict the form, type, or amount of investments that would otherwise be considered prudent under the terms of those sections. This will increase the flexibility and range of investment choice available to these retirement systems, while ensuring protection of the interests of their beneficiaries.

SEC. 29. Section 53216.2 of the Government Code is repealed.

SEC. 30. Section 53216.5 of the Government Code is amended to read:

53216.5. Notwithstanding any other provisions of this article and except as otherwise expressly restricted by the California Constitution and by law, the legislative body, trust, or other body, authorized to make investments for a pension trust, may invest, or delegate the authority to invest, the assets of the pension trust, through the purchase, holding, or sale of any form or type of investment, financial instrument, or financial transaction when prudent in the informed opinion of that body pursuant to Section 53216.6.

SEC. 31. Section 53216.6 of the Government Code is repealed.

SEC. 32. Section 53216.6 is added to the Government Code, to read:

53216.6. The assets of the pension trust are trust funds and shall be held for the exclusive purposes of providing benefits to participants in the pension or retirement system and their beneficiaries and defraying reasonable expenses of administering the system.

The legislative body, trust, or other body authorized to make investments for a pension trust, shall discharge its duties with respect to investing the assets of the pension trust.

(a) Solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the trust.

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

(c) Shall diversify the investments of the trust so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly prudent not to do so.

SEC. 33. Section 12364 of the Public Utilities Code is amended to read:

12364. If the district maintains its own retirement fund, the retirement board shall have exclusive control of the administration, investment, and disbursement of the retirement fund. The

retirement fund is a trust fund held for the exclusive purposes of providing benefits to members of the retirement system and their survivors and beneficiaries. Investment of the fund shall be subject to the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

SEC. 34. Section 12365 of the Public Utilities Code is repealed.

SEC. 35. Section 12365.5 of the Public Utilities Code is repealed.

SEC. 36. Section 12365.9 of the Public Utilities Code is repealed.

SEC. 37. Section 12366 of the Public Utilities Code is amended to read:

12366. Notwithstanding Section 12364, the retirement board may contract with one or more qualified investment managers in connection with the investment program of the retirement board.

SEC. 38. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the mandate of the people as expressed by the vote on Proposition 21 at the election of June 5, 1984, may be implemented at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1739

An act to amend Section 19610 of, and to add Section 19610.1 to, the Business and Professions Code, relating to horseracing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1984 Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 19610 of the Business and Professions Code is amended to read:

19610. Every association which conducts a racing meeting shall deduct 15 percent of the total amount handled in conventional parimutuel pools and 16.75 percent of the total amount handled in exotic parimutuel pools, except that any association conducting a harness racing meeting shall deduct 17.75 percent of the total amount handled in exotic parimutuel pools. The amounts as deducted shall be distributed as prescribed in this chapter.

SEC. 2. Section 19610.1 is added to the Business and Professions Code, to read:

19610.1. Every association which conducts a harness racing

meeting and deducts 17.75 percent of the total amount handled in exotic parimutuel pools shall use 1 percent of the total amount handled in the exotic parimutuel pools to fund the California Standardbred Sires Stakes Program. The 1 percent shall be deposited into the separate trust account provided for in Section 19619.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to encourage California-based harness racing stables to remain in the state during the fall and winter months, it is necessary that this act take effect immediately

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CHAPTER 1740

An act to amend Sections 19406, 19428, 19440, 19441, 19442, 19463, 19614.2, and 19617.7 of, to amend and repeal Sections 19612.1 and 19612.2 of, and to add Sections 19444 and 19466 to, the Business and Professions Code, relating to horseracing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984]

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

SECTION 1. Section 19406 of the Business and Professions Code is amended to read:

19406. (a) "California-bred horse" is a foal dropped by a mare in California after being conceived in California and remaining in California until the foal is weaned.

(b) A "California-bred thoroughbred" is a horse dropped by a mare in California after being conceived in California, or any thoroughbred horse dropped by a mare in California if the mare remains in California to be next bred to a thoroughbred stallion standing in California. If the mare cannot be bred for two successive breeding seasons but remains in California during that period, her foal shall be considered to be a California-bred thoroughbred.

(c) A "California-bred quarter horse" is a quarter horse foal dropped by a mare in California after being conceived in California and remaining in California until the foal is weaned, or any quarter horse foal which is conceived in California on or after January 1, 1981.

(d) A "California-bred standardbred horse" is a standardbred foal dropped by a mare in California after being conceived in California and remaining in California until the foal is weaned, or any standardbred foal which is conceived in California on or after January 1, 1984.

(e) A "California-bred Appaloosa horse" is a horse dropped by a mare in California after being conceived in California, or any Appaloosa horse dropped by a mare in California if the mare remains in California to be next bred to a Appaloosa stallion standing in California. If the mare cannot be bred for two successive breeding seasons but remains in California during that period, her foal shall be considered to be a California-bred Appaloosa horse.

SEC. 2. Section 19428 of the Business and Professions Code is amended to read:

19428. The board shall appoint a secretary who shall receive the annual salary established by the board and approved by the Department of Personnel Administration. The secretary shall be the board's executive officer and shall carry out and execute the duties as specified by law and by the board.

SEC. 3. Section 19440 of the Business and Professions Code is amended to read:

19440. The board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the board shall include, but not be limited to:

(1) Adopting rules and regulations for the protection of the public and the control of horseracing and parimutuel wagering.

(2) Administration and enforcement of all laws, rules and regulations affecting horseracing and parimutuel wagering.

(3) Adjudication of controversies arising from the enforcement of those laws and regulations dealing with horseracing and parimutuel wagering.

(4) Licensing of each racing association and all persons, other than the public at large, who participate in a horserace meeting with parimutuel wagering.

(5) Allocation of racing dates to qualified associations in the best interests of the people of California in accord with the intent of this chapter.

The board may delegate to stewards such of its powers and duties that are necessary to carry out fully and effectuate the purposes of this chapter.

The board upon due consideration may overrule any steward's decision if a preponderance of evidence indicates:

(a) The stewards mistakenly interpreted the law.

(b) New evidence of a convincing nature is produced.

(c) The best interests of racing and the state may be better served. However, (a) any decision pertaining to the finish of a race, as used for purposes of parimutuel fund distribution to winning ticketholders, may not be overruled; and (b) any decision pertaining to the distribution of purses may only be changed if a claim is made in writing to the board by one of the involved owners or trainers, and a preponderance of evidence clearly indicates to the board that one or more of the grounds for protest, as outlined in regulations prepared by the board, has been substantiated. The chairman of the

board may issue a stay of execution pending appeal from a steward's decision if the facts justify such action.

SEC. 4. Section 19441 of the Business and Professions Code is amended to read:

19441. The board shall annually make a full report to the Governor and the Legislature of its proceedings for the preceding fiscal year, on or before January 31, and shall embody therein any recommendations deemed needed for improved functioning of the horseracing laws.

SEC. 5. Section 19442 of the Business and Professions Code is amended to read:

19442. The board shall contract with persons licensed as stewards pursuant to Section 19510 to perform the duties of stewards at horseracing meets and representatives of the affected racing associations shall be entitled to participate in the negotiation of the contracts. Contracts shall be upon such terms as the board and the stewards may mutually agree upon and may contain differing rates of compensation based upon the experience of the steward.

The board shall assess each racing association prior to the start of any race meet for an amount equal to the total compensation to be paid to the stewards assigned by the board to the race meet. The funds shall be paid to the board by the associations in equal installments at the end of each week, or partial week of racing. The board shall maintain these funds in a separate trust account in the State Treasury, and the board may withdraw advances from the trust account which are sufficient to meet the requirements of the stewards' compensation program, including costs incurred for reasonable and necessary administrative operations but in amounts not to exceed 2 percent of the total of funds assessed for the program.

The board shall establish a committee of at least two board members to meet at least quarterly with representatives of the stewards, so that recommendations of the stewards can be discussed as necessary. These meetings may be scheduled the same day as regular board meetings or at the convenience of the board.

SEC. 6. Section 19444 is added to the Business and Professions Code, to read:

19444. In performing its responsibilities pursuant to this chapter, the board may do the following:

(a) Pay membership fees, join, and participate in the affairs of associations having for their purpose the interchange of information relating to racing law enforcement, the licensing of horseracing participants, the registration of race horses, and subjects relating to the duties of the board.

(b) Tabulate, analyze, and publish statistical information based upon parimutuel handles, attendance, distribution of parimutuel proceeds among fees, commissions, purses, and awards, and upon the breeding and production of race horses or other information relating to parimutuel wagering.

(c) Conduct research to determine more fully the cause and

prevention of horseracing accidents, the effects of drug substances on the race horses, and the means for detection of foreign drug substances.

SEC. 7. Section 19463 of the Business and Professions Code is amended to read:

19463. The action of the board in suspending or revoking a license issued under this chapter is final, except that the propriety of the action of suspending or revoking a license or of any other final administrative action of the board is subject to review by any court of competent jurisdiction if the action is commenced in the court within 30 days of the board's action. The action of the board shall stand unless and until reversed by a court. No action may be commenced in a court to attack, review, set aside, void, or annul any final action of the board unless it is commenced within 30 days of the board's action.

SEC. 8. Section 19466 is added to the Business and Professions Code, to read.

19466. The board shall maintain a current listing of its temporary and permanent licensees and shall include therein identifying information as to each licensee and the address of record. The board may provide a copy of the listing in the form requested by any federal, state, county, or municipal authority or racing jurisdiction. The board may require that its costs for providing a copy of a listing be reimbursed by the requesting authority or agency or organization.

SEC. 9. Section 19612.1 of the Business and Professions Code is amended to read:

19612.1. (a) In addition to the amounts otherwise deducted pursuant to this chapter, every association with an average daily handle of more than six hundred fifty thousand dollars ($650,000), which conducts a harness, quarter, or Appaloosa horse meeting may deduct from the total amount handled in daily double, quinella, exacta, and other multiple wagering pools approved by the board up to 3 percent thereof to be distributed as additional commissions and purses in the following percentage ratio: to the association as additional commission, 59.5 percent; to the horsemen as additional purses, 40.5 percent.

(b) From the amount deducted for quarter horse purses under subdivision (a), a sum equal to 25 percent thereof shall be held by the association to be paid as owners' premiums for California breds winning or placing second at the meeting. The premiums shall be distributed within 30 days of the date on which the funds are received by the officially recognized organization designated to administer this subdivision on a prorated percentage basis of first and second moneys earned to persons owning California-bred quarter horses at the time of their wins or places in races having a total purse value equal to or in excess of the average purse value for races, other than stakes races, won by California-bred horses during the previous year. Except for fair meetings, the maximum award made to an

owner in any one race shall not exceed 15 percent of the total awards fund.

The board shall designate the officially recognized organizations representing quarter horse horsemen to administer this subdivision and to distribute premiums. The organizations may, with the approval of the board, make a deduction for expenses not to exceed 5 percent of the total awards fund.

(c) From the amount deducted for Appaloosa horse purses under subdivision (a), a sum equal to 13.33 percent thereof shall be held by the association to be paid as owners' premiums for California breds winning at the meeting. The premiums shall be distributed within 30 days of the close of the meeting on a prorated percentage basis of first moneys earned to persons owning California-bred Appaloosa horses at the time of their wins in races having a total purse value in excess of the average purse value for races, other than stakes races, won by California-bred horses during the previous year. Except for fair meetings, the maximum award made to an owner in any one race shall not exceed 15 percent of the total awards fund. The board shall designate the officially recognized organization representing Appaloosa horsemen to administer this subdivision and to distribute premiums. The organization may, with the approval of the board, make a deduction for expenses not to exceed 5 percent of the total awards fund.

(d) At least 30 days prior to the commencement of its meeting, the association shall file with the board a statement of the additional deduction to be made pursuant to subdivision (a). Except with the consent of the board, the amount of the deduction shall not be changed during the course of the meeting.

(e) In addition to the amounts otherwise deducted pursuant to this section, every harness racing association shall deduct an additional 2 percent of its exotic parimutuel pools to be distributed equally as commissions and purses.

SEC. 10. Section 19612.1 of the Business and Professions Code is amended to read:

19612.1. (a) In addition to the amounts otherwise deducted pursuant to this chapter, every association with an average daily handle of more than seven hundred fifty thousand dollars ($750,000) which conducts a harness, quarter, or Appaloosa horse meeting may deduct from the total amount handled in daily double, quinella, exacta, and other multiple wagering pools approved by the board up to 3 percent thereof to be distributed as additional commissions and purses in the following percentage ratio: to the association as additional commission, 59.5 percent; to the horsemen as additional purses, 40.5 percent.

(b) From the amount deducted for quarter horse purses under subdivision (a), a sum equal to 25 percent thereof shall be held by the association to be paid as owners' premiums for California breds winning or placing second at the meeting. The premiums shall be distributed within 30 days of the date on which the funds are

received by the officially recognized organization designated to administer this subdivision on a prorated percentage basis of first and second moneys earned to persons owning California-bred quarter horses at the time of their wins or places in races having a total purse value equal to or in excess of the average purse value for races, other than stakes races, won by California-bred horses during the previous year. Except for fair meetings, the maximum award made to an owner in any one race shall not exceed 15 percent of the total awards fund.

The board shall designate the officially recognized organizations representing quarter horse horsemen to administer this subdivision and to distribute premiums. The organizations may, with the approval of the board, make a deduction for expenses not to exceed 5 percent of the total awards fund.

(c) From the amount deducted for Appaloosa horse purses under subdivision (a), a sum equal to 13.33 percent thereof shall be held by the association to be paid as owners' premiums for California breds winning at the meeting. The premiums shall be distributed within 30 days of the close of the meeting on a prorated percentage basis of first moneys earned to persons owning California-bred Appaloosa horses at the time of their wins in races having a total purse value in excess of the average purse value for races, other than stakes races, won by California-bred horses during the previous year. Except for fair meetings, the maximum award made to an owner in any one race shall not exceed 15 percent of the total awards fund. The board shall designate the officially recognized organization representing Appaloosa horsemen to administer this subdivision and to distribute premiums. The organization may, with the approval of the board, make a deduction for expenses not to exceed 5 percent of the total awards fund.

(d) At least 30 days prior to the commencement of its meeting, the association shall file with the board a statement of the additional deduction to be made pursuant to subdivision (a). Except with the consent of the board, the amount of the deduction shall not be changed during the course of the meeting.

(e) In addition to the amounts otherwise deducted pursuant to this section, every harness racing association shall deduct an additional 2 percent of its exotic parimutuel pools to be distributed equally as commissions and purses.

(f) This section shall remain in effect only until two years after the date of enactment of Assembly Bill 4053 and as of that date is repealed, unless a later enacted statute, which is enacted before that date, deletes or extends that date.

SEC. 11. Section 19612.2 of the Business and Professions Code is amended to read:

19612.2. (a) In addition to the amounts otherwise deducted pursuant to this chapter, every association with an average daily handle of six hundred fifty thousand dollars ($650,000) or less, except an association subject to Section 19614.2, which conducts a harness,

quarter, or Appaloosa horse meeting may deduct from the total amount handled in its daily exotic parimutuel pool up to 3 percent thereof to be distributed as additional commissions and purses as follows:

(1) For quarter horse meetings conducted other than pursuant to Section 19612.6 and for Appaloosa horse meetings, as agreed to by the association conducting the meeting and the organization representing the horsemen participating at the meeting.

(2) For harness and quarter horse meetings conducted pursuant to Section 19612.6, 50 percent as commissions and 50 percent as purses.

(b) From the amount deducted for quarter horse purses under subdivision (a), a sum equal to 25 percent thereof shall be held by the association to be paid as owners' premiums for California breds winning or placing second at the meeting. The premiums shall be distributed within 30 days of the date on which the funds are received by the officially recognized organization designated to administer this subdivision on a prorated percentage basis of first and second moneys earned to persons owning California-bred quarter horses at the time of their wins or places in races having a total purse value equal to or in excess of the average purse value for races, other than stakes races, won by California-bred horses during the previous year. Except for fair meetings, the maximum award made to an owner in any one race shall not exceed 15 percent of the total awards fund.

The board shall designate the officially recognized organizations representing quarter horse horsemen to administer this subdivision and to distribute premiums. The organizations may, with the approval of the board, make a deduction for expenses not to exceed 5 percent of the total awards fund.

(c) From the amount deducted for Appaloosa horse purses under subdivision (a), a sum equal to 13.33 percent thereof shall be held by the association to be paid as owners' premiums for California breds winning at the meeting. The premiums shall be distributed within 30 days of the close of the meeting on a prorated percentage basis of first moneys earned to persons owning California-bred Appaloosa horses at the time of their wins in races having a total purse value in excess of the average purse value for races, other than stakes races, won by California-bred horses during the previous year. Except for fair meetings, the maximum award made to an owner in any one race shall not exceed 15 percent of the total awards fund. The board shall designate the officially recognized organization representing Appaloosa horsemen to administer this subdivision and to distribute premiums. The organization may, with the approval of the board, make a deduction for expenses not to exceed 5 percent of the total awards fund.

(d) At least 30 days prior to the commencement of its meeting, the association shall file with the board a statement of the additional deduction to be made pursuant to subdivision (a) and its distribution

between commissions and purses. Except with the consent of the board, the amount of the deduction and its distribution shall not be changed during the course of the meeting.

(e) In addition to any deductions pursuant to this section, every harness racing association shall also deduct an additional 2 percent of its daily exotic parimutuel pool to be distributed equally as commissions and purses.

SEC. 12. Section 19612.2 of the Business and Professions Code is amended to read:

19612.2. (a) In addition to the amounts otherwise deducted pursuant to this chapter, every association with an average daily handle of seven hundred fifty thousand dollars ($750,000) or less, except an association subject to Section 19614.2, which conducts a harness, quarter, or Appaloosa horse meeting may deduct from the total amount handled in its daily exotic parimutuel pool up to 3 percent thereof to be distributed as additional commissions and purses as follows:

(1) For quarter horse meetings and for Appaloosa horse meetings, as agreed to by the association conducting the meeting and the organization representing the horsemen participating at the meeting.

(2) For harness horse meetings conducted pursuant to Section 19612.6, 50 percent as commissions and 50 percent as purses.

(b) From the amount deducted for quarter horse purses under subdivision (a), a sum equal to 25 percent thereof shall be held by the association to be paid as owners' premiums for California breds winning or placing second at the meeting. The premiums shall be distributed within 30 days of the date on which the funds are received by the officially recognized organization designated to administer this subdivision on a prorated percentage basis of first and second moneys earned to persons owning California-bred quarter horses at the time of their wins or places in races having a total purse value equal to or in excess of the average purse value for races, other than stakes races, won by California-bred horses during the previous year. Except for fair meetings, the maximum award made to an owner in any one race shall not exceed 15 percent of the total awards fund.

The board shall designate the officially recognized organizations representing quarter horse horsemen to administer this subdivision and to distribute premiums. The organizations may, with the approval of the board, make a deduction for expenses not to exceed 5 percent of the total awards fund.

(c) From the amount deducted for Appaloosa horse purses under subdivision (a), a sum equal to 13.33 percent thereof shall be held by the association to be paid as owners' premiums for California breds winning at the meeting. The premiums shall be distributed within 30 days of the close of the meeting on a prorated percentage basis of first moneys earned to persons owning California-bred Appaloosa horses at the time of their wins in races having a total purse value in excess

of the average purse value for races, other than stakes races, won by California-bred horses during the previous year. Except for fair meetings, the maximum award made to an owner in any one race shall not exceed 15 percent of the total awards fund. The board shall designate the officially recognized organization representing Appaloosa horsemen to administer this subdivision and to distribute premiums. The organization may, with the approval of the board, make a deduction for expenses not to exceed 5 percent of the total awards fund.

(d) At least 30 days prior to the commencement of its meeting, the association shall file with the board a statement of the additional deduction to be made pursuant to subdivision (a) and its distribution between commissions and purses. Except with the consent of the board, the amount of the deduction and its distribution shall not be changed during the course of the meeting.

(e) In addition to any deductions pursuant to this section, every harness racing association shall also deduct an additional 2 percent of its daily exotic parimutuel pool to be distributed equally as commissions and purses.

(f) This section shall remain in effect only until two years after the date of enactment of Assembly Bill 4053 and as of that date is repealed, unless a later enacted statute, which is enacted before that date, deletes or extends that date.

SEC. 13. Section 19614.2 of the Business and Professions Code is amended to read:

19614.2. (a) In addition to the amounts otherwise deducted pursuant to this chapter, the California Exposition and State Fair, or a district or county fair, or an association conducting its meeting pursuant to Section 19549.1, may deduct from the total amount handled in daily double, quinella, exacta, and other multiple wagering pools approved by the board up to 3 percent thereof to be distributed as additional commissions and purses in the current year of the fair meet. Of the amount deducted, if any, 52 percent shall be distributed as additional purses and 48 percent shall be distributed as additional commissions.

(b) At least 30 days prior to the commencement of its meeting, the association shall file with the board a statement of the additional deduction to be made pursuant to subdivision (a). Except with the consent of the board the amount of the deduction shall not be changed during the course of the meeting.

(c) From the amount deducted for thoroughbred purses under subdivision (a), a sum equal to 13.33 percent thereof shall be held by the association to be paid as owners' premiums for California-breds winning at the meeting. The sum shall be deposited within seven days of the close of the meeting with the official registering agency of California thoroughbred racehorses in a depository approved by the board. After deduction of expenses, not to exceed 5 percent, and approval of all the deductions by the board, the fund shall then be distributed on a prorated percentage basis of first moneys earned to

the persons owning California-bred thoroughbreds at the time of their wins at races having a total purse value of five thousand dollars ($5,000) or more.

(d) From the amount deducted for quarter horse purses under subdivision (a), a sum equal to 25 percent thereof shall be held by the association to be paid as owners' premiums for California-breds winning or placing at the meeting. The premiums shall be distributed within 30 days of the date on which the funds are received by the officially recognized organization designated to administer this subdivision on a prorated percentage basis of first and second place moneys earned to persons owning California-bred quarter horses at the time of their wins or places in races having a total purse value equal to or in excess of the average purse value for races, other than stakes races, won by California-bred horses during the previous year.

The board shall designate the officially recognized organizations representing quarter horse horsemen to administer this subdivision and to distribute premiums.

The organization may, with the approval of the board, make a deduction for expenses not to exceed 5 percent of the total awards fund.

(e) From the amount deducted for Appaloosa horse purses under subdivision (a), a sum equal to 13.33 percent thereof shall be held by the association to be paid as owner's premiums for California-breds winning at the meeting. The premiums shall be distributed within 30 days of the close of the meeting on a prorated percentage basis of first moneys earned to persons owning California-bred Appaloosa horses at the time of their wins in races having a total purse value in excess of the average purse value for races, other than stakes races, won by California-bred horses during the previous year. The board shall designate the officially recognized organization representing Appaloosa horsemen to administer this subdivision and to distribute premiums. The organization may, with the approval of the board, make a deduction for expenses not to exceed 5 percent of the total awards fund.

SEC. 14. Section 19617.7 of the Business and Professions Code is amended to read:

19617.7. Any association conducting a quarter horse racing meeting, except for a mixed breed meeting or a fair meeting, shall deduct an additional 0.2 of 1 percent of the total amount handled in its daily conventional and exotic parimutuel pools for quarter horse races.

The board shall designate the officially recognized organization representing quarter horse horsemen to administer this section and to distribute amounts deducted under this section. The organization may, with the approval of the board, make a deduction for expenses not to exceed 5 percent of the total amount deducted.

After deduction of the percentage for administrative expenses, the amounts deducted under this section shall be distributed as follows:

(a) An amount equal to 10 percent of the second place share of the purse won by a California-bred quarter horse at any meeting held in the state, other than a fair or mixed breed meeting, shall be paid to the breeder of the animal.

(b) The amount remaining after the payments are made under subdivision (a) shall be used for the payment of quarter horse stallion awards as provided in this subdivision.

At the end of the calendar year, stallion awards shall be made on a prorated percentage based on the win and second place shares of the purse, exclusive of all purse money not derived from the parimutuel pools, to the owners of sires of quarter horses who have been officially placed first or second in one or more races other than maiden or claiming races at a quarter horse meeting, or in a nonmaiden claiming race at a quarter horse meeting in races having a total purse value equal to, or in excess of, the average purse value for races, other than stakes races, won by California-bred quarter horses during the previous year, or in any quarter horse stakes race run at the California Exposition and State Fair, or at any county or district agricultural association fair or mixed meeting.

Stallion awards shall not be made to the owner of a sire which has been out of the state for breeding purposes during the calendar year.

Stallion awards shall not be made for any race run outside the State of California.

If there are insufficient funds to make all of the distributions in this section, there shall be no additional assessments made against any association to fund the deficiencies.

SEC. 15. Sections 10 and 12 of this bill incorporates amendments to Sections 19612.1 and 19612.2 of the Business and Professions Code proposed by both this bill and AB 4053. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Sections 19612.1 and 19612.2 of the Business and Professions Code, and (3) this bill is enacted after AB 4053, in which case Sections 19612.1 and 19612.2 of the Business and Professions Code, as amended by AB 4053, shall remain operative only until the operative date of this bill, at which time Sections 10 and 12 of this bill shall become operative, and Sections 9 and 11 of this bill shall not become operative until two years after the date of enactment of AB 4053.

SEC. 16. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for this act to apply to the current racing season, it is necessary that this act take effect immediately.

CHAPTER 1741

An act to amend Section 2881 of the Public Utilities Code, relating to the Public Utilities Commission.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 2881 of the Public Utilities Code is amended to read:

2881. (a) The commission shall design and implement a program whereby each telephone corporation shall provide a telecommunications device capable of servicing the needs of the deaf or severely hearing-impaired, together with a single party line, at no charge additional to the basic exchange rate, to any subscriber who is certified as deaf or severely hearing-impaired by a licensed physician, audiologist, or a qualified state agency and to any subscriber which is an organization representing the deaf or severely hearing-impaired, as determined and specified by the commission pursuant to subdivision (d).

(b) The commission shall also design and implement a program whereby each telephone corporation shall provide a dual party relay system, using third party intervention to connect deaf or severely hearing-impaired persons and offices of organizations representing the deaf or severely hearing-impaired, as determined and specified by the commission pursuant to subdivision (d), with persons of normal hearing by way of intercommunications devices for the deaf or severely hearing-impaired and the telephone system, making available reasonable access of all phases of public telephone service to deaf or severely hearing-impaired telephone subscribers. In order to make a dual party relay system which will meet the requirements of deaf and severely hearing-impaired persons available at a reasonable cost, the commission shall initiate an investigation, conduct public hearings to determine the most cost-effective method of providing dual party relay service to the deaf or severely hearing-impaired when using a telecommunications device, and solicit the advice, counsel, and physical assistance of statewide nonprofit consumer organizations of the deaf, during the development and implementation of the system. The commission shall phase in this program, on a geographical basis, over a three-year period ending on January 1, 1987.

(c) The commission shall establish a rate recovery mechanism, which shall not exceed three cents ($0.03) per month for each line of a subscriber, to allow telephone corporations to recover costs as they are incurred under this section.

(d) The commission shall determine and specify those statewide organizations representing the deaf or severely hearing-impaired

which shall receive a telecommunications device pursuant to subdivision (a) or a dual party relay system pursuant to subdivision (b), or both, and in which offices the equipment shall be installed in the case of an organization having more than one office. The commission shall direct the telephone corporations subject to its jurisdiction to comply with its determinations and specifications in this regard.

CHAPTER 1742

An act to add Section 7010 to the Penal Code, relating to prisons.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 7010 is added to the Penal Code, to read:

7010. (a) The Director of Corrections may solicit bids for any lease or lease-purchase for the establishment of a prison facility for a site in Los Angeles County.

(b) The director may not accept any lease or lease-purchase bid or execute any lease or lease-purchase agreement unless and until the bid or agreement is submitted for review and approval under the procedure described in Section 7003.

(c) Any lease or lease-purchase agreement executed pursuant to this section shall contain, as a condition of the agreement, stipulations requiring compliance with the provisions of Chapter 1 (commencing with Section 1720) of Part 7 of the Labor Code in the construction of any facility within the scope of the agreement.

CHAPTER 1743

An act to amend Section 5700 of, and to add Chapter 3.1 (commencing with Section 15819.1) to Part 10b of Division 3 of Title 2 of, the Government Code, to amend Sections 7003, 7006, and 13602 of the Penal Code, to amend Section 10103.5 of, and to add Section 10122.5 to, the Public Contract Code, and to amend Section 10 of Chapter 958 of the Statutes of 1983, relating to prisons, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 5700 of the Government Code is amended to read:

5700. "Bonds" as used in this chapter means (a) any bonds or other evidences of indebtedness issued after the effective date of this chapter by the state or any state department, board, agency or authority or (b) any bonds or other evidences of indebtedness issued by any joint powers agency created under Chapter 5 (commencing with Section 6500) of Division 7 that are payable from payments made with respect to a lease or sale of property to or from the state or any state department, board, agency, or authority. For purposes of this chapter, "evidence of indebtedness" includes, but is not limited to, certificates of participation or interests in any rental or lease payments or installment purchase payments, in an aggregate principal amount exceeding $10,000,000, to be made by the state or any state department, board, agency, or authority with respect to buildings or other capital improvements.

SEC. 1.5. Chapter 3.1 (commencing with Section 15819.1) is added to Part 10b of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 3.1. LEASE-PURCHASE FINANCING OF PRISON CONSTRUCTION

15819.1. The following terms shall, for purposes of this chapter, have the meanings given to them in this section:

(a) "Lease-purchase financing" means the financing of the acquisition and construction of prison facilities from the proceeds of the sale of revenue bonds or certificates of participation authorized by the board.

(b) "Certificate of participation" means any security evidencing an undivided, proportionate interest in lease payments to be made by the department to the board under a lease or lease-purchase agreement. The board shall assign all or some of its rights, title, and interest in the lease to a trustee for the benefit of the owners of the certificates, including its right to receive lease payments and additional rental thereunder.

(c) "Prison facility" means real property, fixtures, furnishings, equipment, and related improvements for the following facilities:

(1) State Prison - Kings County.

(2) One of the following three facilities:

(A) State Prison - Los Angeles County.

(B) State Prison - Riverside County.

(C) State Prison - San Bernardino County.

(d) "Prison facilities lease" means any lease of a prison facility entered into by the Director of Corrections.

(e) "Lease pledge" means the pledge of the board of moneys for payment under the prison facilities lease.

(f) "Lessor" means the lessor under any prison facilities lease and any trustee on behalf of the lessor.

(g) "Bonds" means revenue bonds issued to finance the cost of acquiring and constructing prison facilities.

15819.2. Without obtaining further authorization under Section 15808, the board may acquire, may obtain an option to purchase, and may engage in the construction of prison facilities at, any site which, by statutory authorization, may be used, owned, or hereafter acquired by the Department of Corrections, but only at the request or with the consent of the Department of Corrections.

15819.3. The board may finance the construction of prison facilities using lease-purchase financing arrangements either by the issue of revenue bonds pursuant to Chapter 5 (commencing with Section 15830) or by the sale of certificates of participation. The construction and acquisition of prison facilities and the financing of them constitutes the construction of public buildings for the purposes of Chapter 5 (commencing with Section 15830). The total amount of revenue bonds or certificates of participation to be issued pursuant to this section is a maximum of three hundred million dollars ($300,000,000).

15819.35. Lease-purchase financing shall not be used unless the Treasurer determines that the net interest cost, including anticipated interest earnings and costs of issuance, associated with a lease-purchase financing are comparable to the net interest cost, including costs of issuance, associated with general obligation bond financing of a similar size and term. The costs associated with the bond shall either be the costs of the most recent bond issue, if this is no earlier than 30 days from the day the determination is made, or of the cost of bonds in the secondary market no earlier than 30 days prior to making his or her determination. As used in this section, "comparable" means that the net interest cost rate associated with lease-purchase financing, as adjusted to reflect anticipated interest earnings on any reserve funds established from the proceeds of the financing, shall not exceed the net interest cost rate of the general obligation bond financing by more than 75 basis points.

15819.37. The revenue bonds or certificates of participation authorized to be issued by this chapter shall be sold pursuant to Section 15832.

15819.4. Notwithstanding Section 15816, the public buildings acquired or constructed by the board pursuant to this chapter shall be and remain under the jurisdiction and control of, and shall be operated and maintained by, the Department of Corrections. Construction of any prison facilities utilizing the financing methods authorized in this chapter shall be done on behalf of the board by the Department of Corrections. The Department of Corrections may contract with a construction manager for construction and other services related to the construction of prison facilities financed pursuant to this chapter.

15819.5. Such amount as may be necessary to pay semiannually

the amount required to pay rent for the public buildings authorized to be acquired and constructed pursuant to this chapter and under and pursuant to a prison facilities lease is hereby appropriated each fiscal year payable from the fund in the State Treasury from which the Department of Corrections derives its appropriation for support and shall become available only if the Department of Finance certifies to the Controller that the amount required semiannually to pay this rent has not been included in the Budget Act for that fiscal year for the support of the Department of Corrections.

15819.55. Forty-five days prior to marketing revenue bonds or certificates of participation authorized by this chapter, the Department of Corrections shall notify the chairpersons of the fiscal committees in each house, the chairpersons of the Assembly Criminal Law and Public Safety Committee and the Senate Judiciary Committee, the Chairperson of the Joint Legislative Budget Committee, and the Chairperson of the Joint Legislative Prison Committee of the general parameters of the proposed sale, including the size and terms of the issue, the anticipated debt service requirements, and any other significant factors affecting the sale.

The Department of Corrections shall report to these named chairpersons on a quarterly basis following the sale of the bonds or notes on the progress of any acquisition or construction financed by the sale and on the then current debt service requirements.

15819.6. Notwithstanding Section 15818, the revenues, rentals, and receipts from all public buildings authorized under this chapter may be pledged to the payment of the principal of, premium if any, and interest on the revenue bonds or certificates of participation issued to finance the acquisition and construction of all such buildings. The revenue bonds or certificates of participation issued to finance these public buildings may be equally secured by a lien upon the revenues, rentals, and receipts without priority for number, date of revenue bonds or certificates of participation, of sale, of execution, or of delivery pursuant to this part.

15819.7. The board, as additional security for a prison facilities lease, may agree to pledge and assign all or any portion of any moneys as may be legally available from time to time, to secure payments of the prison facilities lease to a fiscal agent, the Treasurer, or to a trustee in trust for the persons entitled thereto.

15819.75. In addition to any other powers granted by law, the board may for the purposes of this chapter:

(a) Obtain insurance against loss by fire or other hazards on public buildings, both during and after construction, and obtain insurance against loss of revenues from any causes whatsoever, for the protection of the certificate of participation holders, bondholders, or holders of any of its negotiable notes or negotiable bond anticipation notes.

(b) Issue negotiable notes and negotiable bond anticipation notes as provided in this part, to obtain interim funds to pay the cost of public buildings, secure the payment of negotiable notes and

negotiable bond anticipation notes and interest thereon as provided in this part, and provide for the security of negotiable notes and negotiable bond anticipation notes and the rights of the holders thereof.

The board may authorize the preparation of bid proposals for the construction of projects prior to obtaining interim financing. However, no contracts shall be executed until interim financing is available to the board.

(c) Obtain and assign options to purchase prison facility sites authorized by the Legislature.

15819.8. (a) The terms of a prison facilities lease may do all of the following:

(1) Authorize the sale of certificates of participation or other representations of interest in some or all of the lessor's rights under the lease and the assignment of some or all of the lessor's rights under the lease to a trustee on behalf of the lessor and the holders of the revenue bonds or certificates of participation or other representations of interest.

(2) Contain such other terms, covenants, and conditions as the board may prescribe.

(b) The lease may be for any term not to exceed 30 years.

15819.9. An amount not to exceed the amount of unsold revenue bonds or certificates of participation which the board has by resolution authorized to be sold for the purpose of carrying out this chapter is hereby appropriated from the General Fund to the Director of Finance, who may direct that any portion of that amount shall be deposited into a special account in the Public Building Construction Fund, to be used for the construction of prison facilities to be financed pursuant to this chapter. Any amounts made available from the General Fund under this section to the board shall be repaid by the board to the General Fund from the proceeds received from the sale of revenue bonds or certificates of participation sold for the purpose of carrying out this chapter. Any such amounts shall be repaid to the General Fund with interest at the rate which the Treasurer certifies would have been earned on those amounts if invested in the Pooled Money Investment Fund.

15819.91. Notwithstanding Section 13340 of the Government Code, funds derived from the financing methods authorized by this chapter and deposited in the State Treasury are hereby continuously appropriated to the Department of Corrections on behalf of the board for the purpose of acquiring and constructing the prison facilities so financed.

15819.95. During the 1984–85 fiscal year, the Department of Corrections may make lease payments, required to be made during that year, from Item 5240-001-001 of the Budget Act of 1984.

15819.96. This chapter shall be interpreted in a manner that will promote the security of the revenue bond or certificate of participation holders and the expeditious construction of prison facilities funded pursuant to it.

SEC. 2. Section 7003 of the Penal Code is amended to read:

7003. The department shall submit completed preliminary plans, proposed staffing patterns and proposed inmate work programs for all facilities included within its master plan, as defined in subdivision (b) of Section 7000, as soon as is practicable, but no later than 30 days prior to submission to the Public Works Board, to the Joint Legislative Prison Committee and the fiscal committees of the Senate and Assembly for review and approval. The department shall submit proposed staffing patterns at the time preliminary plans for inmate housing facilities are submitted. The department shall submit proposed inmate work-training programs at the time preliminary plans for the industrial vocational education buildings are submitted.

If each committee does not, by majority vote of the committee membership, approve the submittal, the Public Works Board shall not act upon the affected plans. If a committee fails to take any action with respect to the submitted plans within 30 days after submittal, such inaction shall be deemed to be approval for purposes of this section.

SEC. 3. Section 7006 of the Penal Code is amended to read:

7006. (a) The Department of the Youth Authority is authorized to transfer to the Department of Corrections title to any property of the Preston School of Industry at Ione not currently being used by the Department of the Youth Authority

(b) The Department of the Youth Authority is authorized to transfer to the Department of Corrections title to any property of the Northern California Youth Center near Stockton not currently being used by the Department of the Youth Authority.

SEC. 4. Section 13602 of the Penal Code is amended to read:

13602. The departments shall jointly use the training academy at Galt. The academy shall be known as the Richard A. McGee Academy. The training divisions, in using the funds, shall endeavor to minimize costs of administration so that a maximum amount of the funds will be used for providing training and support to correctional peace officers while being trained by the departments.

SEC. 5. Section 10103.5 of the Public Contract Code is amended to read:

10103.5. Work performed by prisoners pursuant to an order by the Director of the Department of Corrections or by the Prison Industry Authority is not subject to this part, provided that the total cost of a project for the construction of new, previously unoccupied prison facilities or additions to an existing facility shall not exceed fifty thousand dollars ($50,000) unless it is first approved by the Public Works Board.

SEC. 5.3. Section 10122.5 is added to the Public Contract Code, to read:

10122.5. For the purposes of Section 10122, all day labor utilized by the Department of Corrections shall be performed by individuals who are represented by a duly authorized employee representative unless individuals with that qualification are not reasonably

available.

SEC. 5.5. Section 10 of Chapter 958 of the Statutes of 1983 is amended to read:

Sec. 10. There is hereby appropriated from the New Prison Construction Fund to the Department of Corrections for capital outlay the sum of one hundred sixty-nine million seven hundred two thousand five hundred dollars ($169,702,500) to be allocated as follows:

(a) Correctional Training Facility		1,770,000
Schedule:		
(1) Sewage and Water improvements: preliminary plans and working drawings	220,000	
(2) Security improvements: preliminary plans, working drawings and construction..	1,550,000	
(b) Deuel Vocational Institution: Security improvements: preliminary plans, working drawings and construction.....		1,400,000
(c) California Men's Colony: Sewage improvements		662,500
(d) California Medical Facility		77,500,000
Schedule:		
(1) One 1200-bed (Levels I and II) facility: preliminary plans and working drawings	3,000,000	
(2) One 1200-bed (Level III) facility: preliminary plans, working drawings, and construction	67,500,000	
(3) Long lead items ..	7,000,000	
(e) On state-owned property in Ione or within 5 miles of the city limits of Ione or at an abandoned military facility other than Camp Roberts		54,000,000
Schedule:		
(1) One 1200-bed (Levels I and II)		

facility: studies, preliminary plans, working drawings, site acquisition, and construction	50,850,000	
(2) Long lead items	2,250,000	
(3) Off-site development and utilities: preliminary plans and working drawings	900,000	
(f) In the City of Avenal or within 5 miles of the city limits of Avenal in Kings County		18,500,000
Schedule:		
(1) One 3000-bed (Levels I and II) facility: site acquisition studies, master plan, preliminary plans, and working drawings	15,000,000	
(2) Long lead items	3,500,000	
(g) The conservation and maintenance camps authorized pursuant to Assembly Bill 436: preliminary plans, working drawings, and construction		15,291,000
Provisions:		
1. The funds appropriated for the purposes of subdivision (g), and the funds appropriated in Item 5240-301-036(14) of the Budget Act of 1982 shall be used for development of at least 1,000 conservation and maintenance camp beds.		
(h) Bautista Conservation and Maintenance Camp—Environmental Impact Report (EIR), initial studies, schematics, preliminary plans, working drawings, and construct Bautista Road		575,000

SEC. 6. There is hereby appropriated from the New Prison Construction Fund to the Department of Corrections for capital outlay the sum of fourteen million two hundred thousand dollars ($14,200,000) to be allocated as follows:

(a) California Medical Facility: one

1200-bed (Level II) facility: construction 11,700,000

(b) California State Prison, San Diego: off-site development and utilities, plans, working drawings, and construction 1,200,000

(c) California State Prison, Riverside: additional funding, preliminary plans, and working drawings 1,300,000

SEC. 7. There is hereby appropriated from the 1984 Prison Construction Fund to the Department of Corrections for capital outlay the sum of one million six hundred thousand dollars ($1,600,000) to be allocated as follows:

(a) 61.01.006.001—Capital program management, technical professional services 1,500,000

(b) 61.01.007.001—General and advance planning and studies 100,000

SEC. 8. There is hereby appropriated from the Special Account for Capital Outlay to the Department of Corrections for capital outlay the sum of two million six hundred seventy thousand dollars ($2,670,000) to be allocated as follows:

(a) California Rehabilitation Center, Norco: acquisition of sewage treatment plant capacity 2,670,000

SEC. 9. Notwithstanding any other provision of law, the unencumbered balances, on June 30, 1984, of the appropriations provided in the following citations, are reappropriated effective July 1, 1984 for the purposes provided for in such appropriations and any additional purposes provided in this section, and shall be available for expenditure until June 30, 1985:

(1) Chapter 326, Statutes of 1982, Item 5240-301-723(2.1), California State Prison at Folsom—61.07.005 construct site development and utilities.

(2) Chapter 326, Statutes of 1982, Item 5240-301-723(4.1), Southern Maximum Security Complex—Tehachapi—61.04.003 support services facilities, construction.

(3) Chapter 326, Statutes of 1982, Item 5240-301-723(5), Temporary housing—61.01.002 various—acquisition and construction of temporary housing.

(4) Chapter 326, Statutes of 1982, Item 5240-301-723(6), California Men's Colony, West—61.10.006 phase II construction and renovation.

(5) Chapter 326, Statutes of 1982, Item 5240-311-723(4), Tempo-

rary housing—61.01.002 various—acquisition and construction of temporary housing units.

SEC. 10. Notwithstanding any other provision of law, as of June 30, 1984, the unencumbered balance of the appropriations provided in the following citations shall revert to the unappropriated surplus of the New Prison Construction Fund:

(1) Chapter 326, Statutes of 1982, Item 5240-301-723(9), Medium Facility #1: 61.01.008—Land acquisition, EIR, initial studies, planning, master planning and schematics; provided that this reversion shall be limited to four million dollars ($4,000,000).

(2) Chapter 326, Statutes of 1982, Item 5240-301-723(10), Medium Facility #2: 61.01.010—Land acquisition, EIR, initial studies, planning, master planning and schematics; provided that this reversion shall be limited to four million dollars ($4,000,000).

SEC. 11. The Department of Corrections, in cooperation with the California State Building and Construction Trades Council, shall develop apprenticeship programs in the buildings trades for inmates. The department shall report to the Legislature on its plans for this program by July 1, 1985.

SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Presently, the state prisons are operating at over 150 percent of capacity and the prison population is still increasing. It is essential to the public safety that construction of new prisons proceed as expeditiously as possible to relieve prison overcrowding, and it is the intent of the Legislature that, consistent with the need for expeditious action, the Department of Corrections utilize phased contracting, multiple and phase contracts, early procurement of long lead-time items, lease-purchase financing, and other technologies to accelerate authorized construction projects; thus, it is necessary that this act go into immediate effect.

CHAPTER 1744

An act to amend Section 1255.5 of the Health and Safety Code, relating to health facilities.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 1255.5 of the Health and Safety Code is amended to read:

1255.5. For purposes of Section 1255, the following definitions shall apply:

(a) "Cardiac catheterization" includes an intravascular insertion of a catheter into the heart for the primary definition and diagnosis of an anatomic cardiac lesion. For the purposes of this definition, the insertion of a Swan-Ganz thermodilution cardiac output catheter, a venous line, and a temporary pacemaking electrode catheter are excluded.

(b) "Cardiac surgery" means surgery on the heart or great vessels requiring a thoracotomy and extracorporeal circulation.

(c) "Cardiac surgery service" means a program of a general acute care hospital which has the capability of performing cardiac catheterizations and cardiac surgery as defined in this section. Under no circumstances shall there exist in a general acute care hospital a cardiac surgery service without a cardiac catheterization laboratory service.

(d) "Cardiac catheterization laboratory service" means a program of a general acute care hospital which has the capability of performing cardiac catheterization. Cardiac catheterization laboratory service does not include pediatric cardiac catheterization laboratory service. Cardiac catheterizations may be performed in either dedicated or multipurpose laboratories. For purposes of this subdivision only, "multipurpose laboratory" means a laboratory which is dedicated primarily to cardiac catheterization procedures. Under no circumstances shall cardiac catheterizations be performed outside of a general acute care hospital or a multispecialty clinic as defined in subdivision (*l*) of Section 1206 which qualifies for such definition as of March 1, 1983.

(e) "Pediatric cardiac surgery service" means a program of a general acute care hospital which has the capability of performing cardiac catheterization and cardiac surgery, as defined in this section, for the diagnosis and treatment of congenital defects in children. Cardiac catheterization for pediatric patients shall be performed only in a general acute care hospital that has the capability to perform cardiac surgery on pediatric patients.

(f) "Intensive care newborn nursery services" means the provision of comprehensive and intensive care for all contingencies of the newborn infant, including intensive, intermediate, and continuing care. Policies, procedures, and space requirements for intensive, intermediate, and continuing care services shall be based upon the standards and recommendations of the American Academy of Pediatrics Guidelines for Perinatal Care, 1983.

(g) Notwithstanding subdivision (d), a health facility which, as of December 31, 1983, was approved by the state department to offer a cardiac catheterization laboratory service in either a dedicated or multipurpose laboratory shall not be prevented from continuing to offer the cardiac catheterization laboratory service in either a dedicated or multipurpose laboratory after January 1, 1984.

CHAPTER 1745

An act to amend Section 15438.1 of the Government Code, and to amend Sections 437.6, 437.10, 437.12, 438.3, 438.5, 438.51, and 1255.5 of, to amend and renumber Section 437.117 of, to add Sections 437.116, 439.3, and 439.7 to, and to repeal Sections 437.119, 437.14, and 439.7 of, the Health and Safety Code, relating to health.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 15438.1 of the Government Code is amended to read:

15438.1. (a) No project shall be eligible for approval under this part unless a certificate of need has first been obtained pursuant to Part 1.5 (commencing with Section 437) of Division 1 of the Health and Safety Code, a certificate of exemption has been obtained pursuant to those provisions, or the project is otherwise exempt from certificate of need or certificate of exemption review and approval.

(b) Notwithstanding any other provision of law, on and after January 1, 1987, the provisions of subdivision (a) are indefinitely suspended. The suspension shall remain in effect for as long as the suspension specified in subdivision (a) of Section 439.7 of the Health and Safety Code continues in existence.

SEC. 2. Section 437.6 of the Health and Safety Code is amended to read:

437.6. (a) The office director shall adopt regulations for the implementation of this part.

(b) Notwithstanding any other provision of this part to the contrary, the office director may suspend the operation of any or all of the following provisions or requirements of this part:

(1) The administrative appeals process for certificate-of-need applications established by Sections 438.8 to 438.12, inclusive. Nothing in this section shall be construed, however, to limit the availability of judicial review of a decision of the office director or of the Advisory Health Council as provided in Section 438.13.

(2) The notification of intent required by Section 438.3.

(c) It is the intent of the Legislature that the office and the area health planning agencies shall not implement the requirements of subdivisions (g) and (h) of Section 1513 of the Public Health Service Act. To the extent required by federal law, the office and area health planning agencies shall request from the Secretary of the United States Department of Health and Human Services a waiver from those requirements.

(d) The Governor shall not execute an agreement with the Secretary of the United States Department of Health and Human Services pursuant to Section 1122 of Public Law 92-603 as the section

existed on January 1, 1981.

SEC. 3. Section 437.10 of the Health and Safety Code is amended to read:

437.10. Except as otherwise exempted by Section 437.11 or this section, projects requiring a certificate of need issued by the Office of Statewide Health Planning and Development are the following:

(a) Construction of a new health facility, relocation of a health facility or specialty clinic on a site which is not the same site or adjacent thereto, the increase of bed capacity in an existing health facility, the conversion of an entire existing health facility from one license category to another, or the conversion of a health facility's existing beds from any bed classification set forth in Section 1250.1 to skilled nursing beds, psychiatric beds, or intermediate care beds, and the conversion of skilled nursing beds, psychiatric beds, or intermediate care beds to any other bed classification set forth in Section 1250.1, except for skilled nursing beds or intermediate care beds licensed as of March 1, 1983, as part of a general acute care hospital. The conversion may not exceed during any three-year period 5 percent of the existing beds of the bed classification to which the conversion is made.

A health facility may use beds in one bed classification which, pursuant to the facility's license, have been designated in another bed classification, if all of these bed classification changes do not at any time exceed 5 percent of the total number of the facility's beds as set forth by the facility's license and if use meets the requirements of Chapter 2 (commencing with Section 1250) of Division 2. In addition, a facility may use an additional 5 percent of its beds in this manner if the director finds that seasonal fluctuations justify it.

For purposes of this subdivision, "adjacent," means real property within a 400-yard radius of the site on which a health facility or specialty clinic currently exists.

(b) Establishment of a new specialty clinic, as defined in paragraphs (1) and (3) of subdivision (b) of Section 1204, a project by a health facility for expanded outpatient surgical capacity, the conversion of an existing primary care clinic to a specialty clinic, or the conversion of an existing specialty clinic to a different category of specialty-clinic licensure. It does not constitute a project and no certificate of need is required for the establishment of a primary care clinic, as defined in subdivision (a) of Section 1204, the conversion of an existing specialty clinic to a primary care clinic, or the conversion of an existing primary care clinic to a different category of primary-care-clinic licensure. Any capital expenditure involved in the establishment of a primary care clinic also does not constitute a project, except as provided in subdivision (d).

(c) The establishment of a new special service delineated in subdivision (a), (b), (c), (e), (f), (g), or (h) of Section 1255, or the establishment by a specialty clinic, as defined in paragraphs (1) and (3) of subdivision (b) of Section 1204, of a new special service identified by or pursuant to Section 1203.

(d) The initial purchase or lease by a clinic subject to licensure under Chapter 1 (commencing with Section 1200) of Division 2, of diagnostic or therapeutic equipment with a value in excess of one million dollars ($1,000,000) in a single fiscal year, or for which the cumulative cost exceeds this amount in more than one fiscal year. For purposes of this subdivision, the purchase or lease of one or more articles of functionally related diagnostic or therapeutic equipment, as determined by the office, shall be considered together.

(e) (1) Any project requiring a capital expenditure for a specialty clinic as defined in paragraphs (1) and (3) of subdivision (b) of Section 1204, or for the services, equipment or modernization of a specialty clinic in excess of one million dollars ($1,000,000) in the current fiscal year or cumulation to an expenditure of one million dollars ($1,000,000) in the same fiscal year or subsequent fiscal years for a single project.

(2) The threshold exemptions from certificate-of-need requirements provided for in this subdivision do not apply to projects for expanded outpatient surgical capacity.

(3) For the purposes of this subdivision, "capital expenditure" means any of the following:

(A) An expenditure, including an expenditure for a construction project undertaken by the specialty clinic as its own contractor, which under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance and which exceeds one million dollars ($1,000,000). The cost of studies, surveys, legal fees, land, offsite improvements, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of the physical plant and equipment with respect to which the expenditure is made shall be included in determining whether the cost exceeds one million dollars ($1,000,000). Where the estimated cost of a proposed project, including cost escalation factors appropriate to the area in which the project is located, is, within 60 days of the date on which the obligation for the expenditure is incurred, certified by a licensed architect or engineer to be one million dollars ($1,000,000) or less, that expenditure shall be deemed not to exceed one million dollars ($1,000,000) regardless of the actual cost of the project. However, in any case where the actual cost of the project exceeds one million dollars ($1,000,000) the specialty clinic on whose behalf the expenditure is made shall provide written notification of the cost to the state department not more than 30 days after the date on which the expenditure is incurred. The notification shall include a copy of the certified estimate.

(B) The acquisition, under lease or comparable arrangement, or through donation, of equipment for a specialty clinic, the expenditure for which would have been considered a capital expenditure if the person had acquired it by purchase. For the purposes of this paragraph, "donation" does not include a bequest.

(C) Any change in a proposed capital expenditure which itself

meets the criteria set forth in this subdivision.

(4) "Capital expenditure" includes the total cost of the proposed project as certified by a licensed architect or engineer based on preliminary plans or specifications and concurred in by the state department.

(5) For the purposes of this subdivision, "project" does not include the purchase of real property for future use or the transfer of ownership, in whole or part, of an existing specialty clinic or the acquisition of all or substantially all of the assets or stock thereof, or the construction, modernization, purchase, lease, or other acquisition of parking lots or parking structures, telephone systems, and nonclinical data-processing systems.

(6) For the purposes of this subdivision, "modernization" means the alteration, expansion, repair, remodeling, replacement, or renovation of existing buildings, including initial equipment thereof, and the replacement of equipment of existing buildings.

(f) Except as provided in subdivision (g), only those projects where 25 percent or less of the patients are covered by prepaid health care.

(g) Projects otherwise subject to review under subdivision (a) which are for the addition of new licensed skilled nursing beds by construction or conversion, regardless of the percentage of patients served who are covered by prepaid health care.

(h) (1) Except as provided in paragraph (2), the office shall annually adjust the dollar thresholds set forth in subdivisions (d) and (e) to reflect changes in the cost of living, as determined by the Department of Finance, using 1981 as the base year.

(2) Notwithstanding the amount of the dollar thresholds specified in paragraph (1), in the event Congress increases or repeals the amount or amounts of the thresholds, the dollar thresholds set forth in subdivisions (d) and (e) shall be the highest amount or amounts permitted by Public Law 93-641, as amended, or one million dollars ($1,000,000), whichever is less, on the date congressional action is effective.

SEC. 4. Section 437.116 is added to the Health and Safety Code, to read:

437.116. Notwithstanding any other provision of this part, the office shall exempt from the provisions of Sections 438 to 438.13, inclusive, and shall issue a certificate of need for, any health care project of a health facility that agrees to provide free health care services to indigents over a period of at least five years at a dollar value equal to the dollar value of the exempted project at completion. The annual dollar value of the free care shall be at a level equal to at least 10 percent of the project value as determined in the agreement. The free health care services shall be furnished in the form of direct service or by reimbursement of costs incurred by other facilities if an insufficient number of patients, as determined in the agreement, are referred or present themselves for treatment to account for the minimum 10 percent requirement.

The provision of free care pursuant to this section shall be in accordance with an agreement executed between the health facility granted an exemption and the Statewide Office of Health Planning and Development. If the health facility does not meet the terms of the agreement, the State Department of Health Services shall suspend the license or special permit associated with the exempted project until compliance with the terms is obtained. The obligations imposed by the agreement shall not be discharged by virtue of transfer of ownership, but shall be assumed by a new owner as a condition of transfer.

"Free care," as used in this section, does not include either of the following:

(a) Bad debt unless the debtor makes specific application for relief as an indigent.

(b) Contractual allowances.

SEC. 5. Section 437.117 of the Health and Safety Code, as added by Chapter 1018 of the Statutes of 1983, is amended and renumbered to read:

437.118. Projects for freestanding outpatient surgery units which only perform cataract surgery under the Medi-Cal program or a program which provides over 25 percent of its services to patients covered by prepaid health care are exempt from the certificate-of-need requirement of this part.

As used in this section and in paragraphs (f) and (g) of Section 437.10, patients are covered by prepaid health care if they are members of federally qualified health maintenance organizations.

SEC. 6. Section 437.119 of the Health and Safety Code is repealed.

SEC. 7. Section 437.14 of the Health and Safety Code is repealed.

SEC. 8. Section 437.12 of the Health and Safety Code is amended to read:

437.12. Taking into consideration the basis for decision set forth in Section 437.9:

(a) The office may, in individual cases, grant certificates of need for projects with respect to which it determines that one of the following is applicable:

(1) The applicant has provided evidence that the project will meet the needs or reasonably anticipated needs of a special population including members of a religious body or denomination who desire to receive care and treatment in accordance with their religious convictions.

(2) The applicant has provided evidence that the project is or will be necessary to meet the health needs or reasonably anticipated health needs of adult residents of a nonprofit community care facility, as defined by subdivision (a) of Section 1502, which is owned by the applicant.

(3) The applicant has provided evidence that, as a health facility, it has developed community support for its services as indicated by its current utilization patterns, and has provided health care services for at least five years.

(4) The applicant has provided evidence, when the project is for a new health facility or an increase in bed capacity, that there will be an equal or greater reduction in bed capacity in other health facilities in the area.

(5) The applicant has provided evidence that it will deliver the service proposed to be offered as a result of the project in an innovative and more competitive manner, or at a lower cost than the service is provided by other facilities in the area, and has provided evidence that the quality of care offered will be comparable to that offered by other facilities in the area; or that as a health facility, it serves a disproportionate volume of publicly funded patients, or patients for whom the cost of health care is uncompensated. The office director shall, as he or she deems appropriate, ensure fulfillment of the requirements of this subdivision through conditions mutually agreed upon by the applicant and the office. This paragraph does not apply to projects for the addition of licensed skilled nursing beds by construction or conversion.

Nothing in this subdivision requires the office to grant certificates of need as authorized by this section in any of the above categories.

(b) In the case of a project for a service to be provided by or through a health maintenance organization for which assistance may be provided under Title XIII, the office shall grant a certificate of need for the project unless the office director finds that the project is not needed by the enrolled or reasonably anticipated new members of the HMO or proposed HMO or the beds or services to be provided are available from non-HMO providers or other HMO's in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO.

For the purposes of subdivision (b), beds or services shall not be considered available if they are any of the following:

(1) Dispersed in more than one facility when the HMO's basic method of operation is to provide services through medical centers which consist of a hospital and medical offices at the same site.

(2) Not available under a contract of at least five years' duration, with an option to extend the contract for such additional time period as is reasonably necessary for the HMO to obtain a certificate of need and to construct and equip and begin operating alternative beds or service, in the event the non-HMO provider or other HMO gives notice that it intends to terminate the contract.

(3) Not available under circumstances which would grant full and equal staff privileges to an adequate number of physicians associated with the HMO in appropriate specialties, or otherwise not conveniently accessible through physicians and other health care professionals associated with the HMO.

(4) Not available in a manner which is administratively feasible to the HMO.

(5) More costly than if the services were provided by the HMO.

In order to qualify under this section, a project which is proposed to be provided by or through a health maintenance organization for

which assistance may be provided under Title XIII, and which consists of or includes the construction, development, or establishment of a new inpatient health care facility, shall be a facility which the office determines will be utilized by members of the health maintenance organization for at least 75 percent of the projected annual inpatient days, as determined in accordance with the recommended occupancy levels under the applicable health systems plan.

(c) In the case of a project for a service to be provided by or through an HMO, the office shall not deny a certificate of need with respect to the service (or otherwise make a finding that the service is not needed) in those cases (1) when the office has granted a certificate of need which authorized the development of the service, or expenditures in preparation for the offering or development (or has otherwise made a finding that the development or expenditure is needed), and when the offering of this service will be consistent with the basic objectives, time schedules, and plans of the previously approved application. However, the office may impose a limitation on the duration of the certificate of need which shall expire at the end of this time unless the health service is offered prior thereto, or (2) solely because there is an HMO of the same type in the same area, or solely because the services are not discussed in the applicable health systems plan, annual implementation plan, state health plan, or state medical facilities plan.

(d) A project for a service to be provided by, or through, an HMO which is subject to review under this part shall remain subject to that review, unless the federal law states that an approved state program shall not require a certificate of need for the project.

The office shall establish uniform procedures and criteria for approving applications under this section.

SEC. 9. Section 438.3 of the Health and Safety Code is amended to read:

438.3. At least 20 calendar days prior to the filing of an application for a certificate of need under Section 437.10, the applicant shall notify the office of its intent to apply for a certificate of need. The office may consult with the applicant on the proposed project.

The office may refuse to accept a certificate-of-need application where the applicant has failed to file a notification of intent to apply for a certificate of need pursuant to this section. However, if a certificate of need is issued, it shall not be invalidated on the sole basis of failure of the applicant to notify the office within the time required by this section.

SEC. 10. Section 438.5 of the Health and Safety Code is amended to read:

438.5. (a) Within 45 calendar days of the receipt of the complete application, or an application otherwise deemed complete pursuant to Section 438.2, the Office of Statewide Health Planning and Development shall do one of the following:

(1) Approve the application. The office may approve the

application pursuant to this subdivision with modifications or conditions, provided that the applicant agrees in writing to the modifications or conditions.

(2) Order a hearing if the office determines that substantial questions exist as to the eligibility of the proposed project for certificate-of-need approval. Except as otherwise provided in this section, the hearing shall be held in the health service area served by the applicant.

(b) The office shall order a hearing by the service of a copy of the order on the applicant and the Office of Administrative Hearings. The order shall include the intended position of the Division of Certificate of Need of the office. Upon receipt of the order, the Office of Administrative Hearings shall promptly consult with the parties to the hearing in order to determine the time and place of hearing. Except as otherwise agreed by the parties and the Office of Administrative Hearings, the hearing shall commence within 15 days of the date of the order. Upon the scheduling of the hearing, the Office of Administrative Hearings shall promptly serve notice of the date, location, and time of the hearing upon the parties to the hearing. The Office of Administrative Hearings shall also publish a notice of the date, location, and time of the hearing in at least one newspaper of general circulation in the health service area served by the applicant. The notice shall also include the name and address of the applicant, the nature of the proposed project, and other information deemed relevant by the Office of Administrative Hearings.

(c) The hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except as otherwise provided in this part. The hearing shall be conducted by a hearing officer assigned by the Office of Administrative Hearings who shall rule on the admission and exclusion of evidence and may exercise all other powers relating to the conduct of the hearing. The division of the office responsible for the review of certificate of need applications shall bear the burden of proof and the burden of producing evidence with respect to all projects. With the concurrence of the parties to the hearing, law and motion matters pertaining to the hearing may be heard by the hearing officer in a location other than the geographic location of the hearing.

(d) The hearing shall conclude within 45 calendar days after commencement of the hearing unless one of the following occurs:

(1) The applicant agrees to extend the time for conclusion of the hearing.

(2) The hearing is ongoing and continuing during consecutive business days, in which case it shall be concluded as soon as reasonably practicable thereafter.

(e) Within seven days after the conclusion of the hearing, the hearing officer shall render a proposed decision supported by findings of fact, based solely upon the record of the hearing, and

conclusions of law. The proposed decision, findings of fact, and conclusions of law shall be served upon the parties to the hearing.

(f) The director shall make a final decision on an application within seven calendar days after issuance of the proposed decision by the hearing officer. The decision shall either approve the application, approve it with modifications, reject it, or approve it with conditions mutually agreed upon by the applicant and the office. The failure of any applicant to fulfill the conditions under which the certificate of need was granted shall constitute grounds for revocation of the certificate of need.

(g) Notice of the substance of the office's decision shall be published in a newspaper of general circulation within the health service area served by the applicant within 10 calendar days following the decision.

SEC. 11. Section 438.51 of the Health and Safety Code is amended to read:

438.51. (a) Notwithstanding subdivision (b), (c), (d), (e), or (f) of Section 438.5, if the office orders a hearing on an application, the applicant may request an informal hearing of the matter, described in this section, in lieu of, and in the alternative to, the formal procedures described in subdivisions (b), (c), (d), (e), and (f) of Section 438.5.

(b) If an applicant requests an informal hearing and the office concurs with the request, the office shall proceed as follows:

(1) Within five calendar days after receipt of the request for an informal public hearing, the office shall order the informal public hearing by the service of a copy of the order on the applicant. The order shall include the staff report and recommendations prepared by staff of the office. Except as otherwise agreed by the applicant and the office, the informal public hearing shall commence within 20 days of the date of the order. Upon the scheduling of the hearing, the office shall promptly serve notice of the date, location, and time of the informal public hearing upon the applicant. The office shall also publish a notice of the date, location, and time of the informal public hearing in at least one newspaper of general circulation in the health service area served by the applicant. The notice shall also include the name and address of the applicant, the nature of the proposed project, and other information, deemed relevant by the office.

(2) The informal public hearing shall not be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The informal public hearing shall be conducted by an employee of the office designated by the office director. The person conducting the informal public hearing may exercise all powers relating to the conduct of the hearing, including the power to reasonably limit the length of oral presentations by any person who has been allowed to make a statement.

The informal public hearing shall be conducted as follows:

(A) The applicant shall be given an opportunity to present the

merits of the project and to address the issues raised by the staff report and recommendations.

(B) The office staff shall be given an opportunity to present their analysis of the project.

(C) Other interested persons shall be given an opportunity to present written or oral statements.

(D) The person conducting the informal public hearing may question any person making a written or oral statement and may give the applicant and office staff an opportunity to question any person who has made a written or oral statement.

(E) The applicant and staff shall be given an opportunity to make closing statements.

(F) The office shall make a tape recording of the hearing, and copies of the tape shall be made available at cost upon reasonable notice. However, the applicant shall have a right to bring a certified shorthand reporter to be used in place of the tape recording, provided that they provide the office with a copy of the transcript.

(G) The burden of proof and of producing evidence shall be on the office staff making the presentation.

(c) The informal public hearing shall conclude within 10 calendar days after commencement of the hearing unless one of the following occurs:

(1) The applicant agrees to extend the time for conclusion of the hearing.

(2) The hearing is ongoing and continuing during consecutive business days, in which case it shall be concluded as soon as reasonably practicable thereafter.

(d) Within 10 days after the conclusion of the informal public hearing, the person conducting the hearing shall render a proposed decision supported by findings of fact, based solely upon the record of the hearing. The proposed decision shall be served upon the applicant and the office staff.

(e) The director shall make a final decision on an application within 10 calendar days after issuance of the proposed decision. The decisions shall either approve the application, approve it with modifications, reject it, or approve it with conditions mutually agreed upon by the applicant and the office. The failure of any applicant to fulfill the conditions under which the certificate of need was granted shall constitute grounds for revocation of the certificate of need.

(f) Notice of the substance of the office's decisions shall be published in a newspaper of general circulation within the health service area served by the applicant, within 10 calendar days following the decision.

(g) Whether or not an informal hearing is granted shall be at the discretion of the office.

SEC. 12. Section 439.3 is added to the Health and Safety Code, to read:

439.3. Commencing on January 1, 1986, and continuing by

January 1 of each even-numbered year thereafter, the Office of Statewide Health Planning and Development shall report to the Governor and the Legislature. The report shall include, but not be limited to, all of the following:

(a) A description of the distribution of health care services in the state with an emphasis on areas of shortages of health facilities, services, and manpower.

(b) An evaluation of the costs and benefits of regulation, deregulation, and competition on health care, including an assessment of their impact on the availability, access, and quality of services.

(c) A forecast of the future community need for health facilities, services, manpower, and capital.

(d) An evaluation of the effects of regulation and deregulation on special populations, including the uninsured, underinsured, unemployed, and those otherwise disadvantaged. The office may contract with the area health planning agencies to assist in the performance of the requirements of this section.

(e) Any policy recommendations that may facilitate the development of needed health care services.

The office may collect the data from health facilities, or other state or federal agencies, necessary to administer this part, including that provided for in subdivision (g) of Section 441.18. The office shall continue to annually develop the Statewide Health Facilities and Services Plan referred to in Section 437.9.

SEC. 13. Section 439.7 of the Health and Safety Code is repealed.

SEC. 14. Section 439.7 is added to the Health and Safety Code, to read:

439.7. (a) Notwithstanding any other provision of law, on and after January 1, 1987, the requirement that health facilities and specialty clinics apply for, and obtain, certificates of need or certificates of exemption is indefinitely suspended.

(b) Notwithstanding any other provision of law, the provisions of Section 15438.1 of the Government Code shall be suspended for the period of time specified for the suspension in subdivision (a).

SEC. 15. Section 1255.5 of the Health and Safety Code is amended to read:

1255.5. For purposes of Section 1255, the following definitions apply:

(a) "Cardiac catheterization" includes an intravascular insertion of a catheter into the heart for the primary definition and diagnosis of an anatomic cardiac lesion. For the purposes of this definition, the insertion of a Swan-Ganz thermodilution cardiac output catheter, a venous line, and a temporary pacemaking electrode catheter are excluded.

(b) "Cardiac surgery" means surgery on the heart or great vessels requiring a thoracotomy and extracorporeal circulation.

(c) "Cardiac surgery service" means a program of a general acute care hospital which has the capability of performing cardiac

catheterizations and cardiac surgery as defined in this section. Under no circumstances shall there exist in a general acute care hospital a cardiac surgery service without a cardiac catheterization laboratory service.

(d) "Cardiac catheterization laboratory service" means a program of a general acute care hospital which has the capability of performing cardiac catheterization. Cardiac catheterization laboratory service does not include pediatric cardiac catheterization laboratory service. Under no circumstances shall cardiac catheterizations be performed outside of a general acute care hospital or a multispecialty clinic, as defined in subdivision (*l*) of Section 1206, which qualifies for this definition as of March 1, 1983.

(e) "Pediatric cardiac surgery service" means a program of a general acute care hospital which has the capability of performing cardiac catheterization and cardiac surgery, as defined in this section, for the diagnosis and treatment of congenital defects in children. Cardiac catheterization for pediatric patients shall be performed only in a general acute care hospital that has the capability to perform cardiac surgery on pediatric patients.

(f) "Intensive care newborn nursery services" means the provision of comprehensive and intensive care for all contingencies of the newborn infant, including intensive, intermediate, and continuing care. Policies, procedures, and space requirements for intensive, intermediate, and continuing care services shall be based upon the standards and recommendations of the American Academy of Pediatrics Guidelines for Perinatal Care, 1983.

SEC. 16. Section 4 of this act shall become operative unless the United States Department of Health and Human Services makes a formal finding that the state is out of conformity with federal health planning law and the Director of the Office of Statewide Health Planning and Development determines, by regulation, that the act would result in substantial reductions in allotments, grants, loans, or loan guarantees made by the federal government to entities within the state. The office director shall notify each house of the Legislature of the adoption or repeal of any regulations pursuant to this section.

CHAPTER 1746

An act to amend Sections 437.12, 438.5, and 438.51 of the Health and Safety Code, relating to health.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 437.12 of the Health and Safety Code is amended to read:

437.12. Taking into consideration the basis for decision set forth in Section 437.9:

(a) The office may, in individual cases, grant certificates of need for projects with respect to which it determines that one of the following is applicable:

(1) The applicant has provided evidence that the project will meet the needs or reasonably anticipated needs of a special population including members of a religious body or denomination who desire to receive care and treatment in accordance with their religious convictions.

(2) The applicant has provided evidence that the project is or will be necessary to meet the health needs or reasonably anticipated health needs of adult residents of a nonprofit community care facility, as defined by subdivision (a) of Section 1502, which is owned by the applicant.

(3) The applicant has provided evidence that, as a health facility, it has developed community support for its services as indicated by its current utilization patterns, and has provided health care services for at least five years.

(4) The applicant has provided evidence, when the project is for a new health facility or an increase in bed capacity, that there will be an equal or greater reduction in bed capacity in other health facilities in the area.

(5) The applicant has provided evidence that it will deliver the service proposed to be offered as a result of the project in an innovative and more competitive manner, or at a lower cost than the service is provided by other facilities in the area, and has provided evidence that the quality of care offered will be comparable to that offered by other facilities in the area; or that as a health facility, it serves a disproportionate volume of publicly funded patients, or patients for whom the cost of health care is uncompensated. The office director shall, as he or she deems appropriate, ensure fulfillment of the requirements of this subdivision through conditions mutually agreed upon by the applicant and the office. This paragraph does not apply to projects for the addition of licensed skilled nursing beds by construction or conversion.

If an applicant is requesting the exercise of discretion by the office director pursuant to this paragraph, prior to granting a certificate of need, the office director shall receive an evaluation from the State Department of Health Services assessing the potential negative financial impact upon any county owned or operated general acute care hospital. If there is a significant negative potential financial impact, a certificate of need shall not be granted.

Nothing in this subdivision requires the office to grant certificates of need as authorized by this section in any of the above categories.

(b) In the case of a project for a service to be provided by or through a health maintenance organization for which assistance may be provided under Title XIII, the office shall grant a certificate of need for the project unless the office director finds that the project is not needed by the enrolled or reasonably anticipated new members of the HMO or proposed HMO or the beds or services to be provided are available from non-HMO providers or other HMO's in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO.

For the purposes of subdivision (b), beds or services shall not be considered available if they are any of the following:

(1) Dispersed in more than one facility when the HMO's basic method of operation is to provide services through medical centers which consist of a hospital and medical offices at the same site.

(2) Not available under a contract of at least five years' duration, with an option to extend the contract for such additional time period as is reasonably necessary for the HMO to obtain a certificate of need and to construct and equip and begin operating alternative beds or service, in the event the non-HMO provider or other HMO gives notice that it intends to terminate the contract.

(3) Not available under circumstances which would grant full and equal staff privileges to an adequate number of physicians associated with the HMO in appropriate specialties, or otherwise not conveniently accessible through physicians and other health care professionals associated with the HMO.

(4) Not available in a manner which is administratively feasible to the HMO.

(5) More costly than if the services were provided by the HMO.

In order to qualify under this section, a project which is proposed to be provided by or through a health maintenance organization for which assistance may be provided under Title XIII, and which consists of or includes the construction, development, or establishment of a new inpatient health care facility, shall be a facility which the office determines will be utilized by members of the health maintenance organization for at least 75 percent of the projected annual inpatient days, as determined in accordance with the recommended occupancy levels under the applicable health systems plan.

(c) In the case of a project for a service to be provided by or through an HMO, the office shall not deny a certificate of need with respect to the service (or otherwise make a finding that the service is not needed) in those cases (1) when the office has granted a certificate of need which authorized the development of the service, or expenditures in preparation for the offering or development (or has otherwise made a finding that the development or expenditure is needed), and when the offering of this service will be consistent with the basic objectives, time schedules, and plans of the previously approved application. However, the office may impose a limitation on the duration of the certificate of need which shall expire at the

end of this time unless the health service is offered prior thereto, or (2) solely because there is an HMO of the same type in the same area, or solely because the services are not discussed in the applicable health systems plan, annual implementation plan, state health plan, or state medical facilities plan.

(d) A project for a service to be provided by, or through, an HMO which is subject to review under this part shall remain subject to that review, unless the federal law states that an approved state program shall not require a certificate of need for the project.

The office shall establish uniform procedures and criteria for approving applications under this section.

SEC. 2. Section 438.5 of the Health and Safety Code is amended to read:

438.5. (a) Within 45 calendar days of the receipt of the complete application, or an application otherwise deemed complete pursuant to Section 438.2, the Office of Statewide Health Planning and Development shall do one of the following:

(1) Approve the application. The office may approve the application pursuant to this subdivision with modifications or conditions, provided that the applicant agrees in writing to the modifications or conditions.

(2) Order a hearing if the office determines that substantial questions exist as to the eligibility of the proposed project for certificate-of-need approval. Except as otherwise provided in this section, the hearing shall be held in the health service area served by the applicant.

(b) The office shall order a hearing by the service of a copy of the order on the applicant and the Office of Administrative Hearings. The order shall include the intended position of the Division of Certificate of Need of the office. Upon receipt of the order, the Office of Administrative Hearings shall promptly consult with the parties to the hearing in order to determine the time and place of hearing. Except as otherwise agreed by the parties and the Office of Administrative Hearings, the hearing shall commence within 15 days of the date of the order. Upon the scheduling of the hearing, the Office of Administrative Hearings shall promptly serve notice of the date, location, and time of the hearing upon the parties to the hearing. The Office of Administrative Hearings shall also publish a notice of the date, location, and time of the hearing in at least one newspaper of general circulation in the health service area served by the applicant. The notice shall also include the name and address of the applicant, the nature of the proposed project, and other information, deemed relevant by the Office of Administrative Hearings.

(c) The hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except as otherwise provided in this part. The hearing shall be conducted by a hearing officer assigned by the Office of Administrative Hearings who shall rule on the admission

and exclusion of evidence and may exercise all other powers relating to the conduct of the hearing. With the concurrence of the parties to the hearing, law and motion matters pertaining to the hearing may be heard by the hearing officer in a location other than the geographic location of the hearing.

(d) The hearing shall conclude within 45 calendar days after commencement of the hearing unless one of the following occurs:

(1) The applicant agrees to extend the time for conclusion of the hearing.

(2) The hearing is ongoing and continuing during consecutive business days, in which case it shall be concluded as soon as reasonably practicable thereafter.

(e) Within seven days after the conclusion of the hearing, the hearing officer shall render a proposed decision supported by findings of fact, based solely upon the record of the hearing, and conclusions of law. The proposed decision, findings of fact, and conclusions of law shall be served upon the parties to the hearing.

(f) The director shall make a final decision on an application within seven calendar days after issuance of the proposed decision by the hearing officer. The decision shall either approve the application, approve it with modifications, reject it, or approve it with conditions mutually agreed upon by the applicant and the office. The failure of any applicant to fulfill the conditions under which the certificate of need was granted shall constitute grounds for revocation of the certificate of need.

(g) Notice of the substance of the office's decision shall be published in a newspaper of general circulation within the health service area served by the applicant, within 10 calendar days following the decision.

SEC. 3. Section 438.51 of the Health and Safety Code is amended to read:

438.51. (a) Notwithstanding subdivision (b), (c), (d), (e), or (f) of Section 438.5, if the office orders a hearing on an application, the applicant may request an informal hearing of the matter, described in this section, in lieu of, and in the alternative to, the formal procedures described in subdivisions (b), (c), (d), (e), and (f) of Section 438.5.

(b) If an applicant requests an informal hearing and the office concurs with the request, the office shall proceed as follows:

(1) Within five calendar days after receipt of the request for an informal public hearing, the office shall order the informal public hearing by the service of a copy of the order on the applicant. The order shall include the staff report and recommendations prepared by staff of the office. Except as otherwise agreed by the applicant and the office, the informal public hearing shall commence within 20 days of the date of the order. Upon the scheduling of the hearing, the office shall promptly serve notice of the date, location, and time of the informal public hearing upon the applicant. The office shall also publish a notice of the date, location, and time of the informal public

hearing in at least one newspaper of general circulation in the health service area served by the applicant. The notice shall also include the name and address of the applicant, the nature of the proposed project, and other information, deemed relevant by the office.

(2) The informal public hearing shall not be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The informal public hearing shall be conducted by an employee of the office designated by the office director. The person conducting the informal public hearing may exercise all powers relating to the conduct of the hearing, including the power to reasonably limit the length of oral presentations by any person who has been allowed to make a statement.

The informal public hearing shall be conducted as follows:

(A) The applicant shall be given an opportunity to present the merits of the project and to address the issues raised by the staff report and recommendations.

(B) The office staff shall be given an opportunity to present their analysis of the project.

(C) Other interested persons shall be given an opportunity to present written or oral statements.

(D) The person conducting the informal public hearing may question any person making a written or oral statement and may give the applicant and office staff an opportunity to question any person who has made a written or oral statement.

(E) The applicant and staff shall be given an opportunity to make closing statements.

(F) The office shall make a tape recording of the hearing, and copies of the tape shall be made available at cost upon reasonable notice. However, the applicant shall have a right to bring a certified shorthand reporter to be used in place of the tape recording, provided that they provide the office with a copy of the transcript.

(c) The informal public hearing shall conclude within 10 calendar days after commencement of the hearing unless one of the following occurs:

(1) The applicant agrees to extend the time for conclusion of the hearing.

(2) The hearing is ongoing and continuing during consecutive business days, in which case it shall be concluded as soon as reasonably practicable thereafter.

(d) Within 10 days after the conclusion of the informal public hearing, the person conducting the hearing shall render a proposed decision supported by findings of fact, based solely upon the record of the hearing. The proposed decision shall be served upon the applicant and the office staff.

(e) The director shall make a final decision on an application within 10 calendar days after issuance of the proposed decision. The decisions shall either approve the application, approve it with modifications, reject it, or approve it with conditions mutually

agreed upon by the applicant and the office. The failure of any applicant to fulfill the conditions under which the certificate of need was granted shall constitute grounds for revocation of the certificate of need.

(f) Notice of the substance of the office's decisions shall be published in a newspaper of general circulation within the health service area served by the applicant, within 10 calendar days following the decision.

(g) Whether or not an informal hearing is granted shall be at the discretion of the office.

CHAPTER 1747

An act to add Chapter 26 (commencing with Section 7570) to Division 7 of Title 1 of the Government Code, and to amend Section 11401 of the Welfare and Institutions Code, relating to minors.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. The Legislature hereby finds and declares that a number of state and federal programs make funds available for the provision of education and related services to children with handicaps who are of school age. The Legislature further finds and declares that California has not maximized, or sufficiently coordinated existing state programs, in providing supportive services which are necessary to assist a handicapped child to benefit from special education.

It is the intent of the Legislature that existing services rendered by state and local government agencies serving handicapped children be maximized and coordinated. It is the further intent of the Legislature that specific state and local interagency responsibilities be clarified by this act in order to better serve the educational needs of the state's handicapped children.

SEC. 2. Chapter 26 (commencing with Section 7570) of Division 7 of Title 1 is added to the Government Code, to read:

CHAPTER 26. INTERAGENCY RESPONSIBILITIES FOR PROVIDING SERVICES TO HANDICAPPED CHILDREN

7570. Ensuring maximum utilization of all state and federal resources available to provide handicapped children, as defined in subsection (1) of Section 1401 of Title 20 of the United States Code, with a free appropriate public education, the provision of related services, as defined in subsection (17) of Section 1401 of Title 20 of the United States Code, and designated instruction and services, as

defined in Section 56363 of the Education Code, to handicapped children, shall be the joint responsibility of the Superintendent of Public Instruction and the Secretary of Health and Welfare. The Superintendent of Public Instruction shall ensure that this chapter is carried out through monitoring and supervision.

7571. The Secretary of Health and Welfare may designate a department of state government to assume the responsibilities described in Section 7570. The secretary, or his or her designee, shall also designate a single agency in each county to coordinate the service responsibilities described in Section 7572.

7572. (a) A child shall be assessed in all areas related to the suspected handicap by those qualified to make a determination of the child's need for the service before any action is taken with respect to the provision of related services or designated instruction and services to a child by individuals whose employment standards are not covered by the Education Code. All assessments required or conducted pursuant to this section shall be governed by the assessment procedures contained in Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of Division 4 of the Education Code.

(b) Occupational therapy and physical therapy assessments shall be conducted by qualified medical personnel as specified in regulations developed by the State Department of Health Services.

(c) Psychotherapy and other mental health assessments shall be conducted by qualified mental health professionals as specified in regulations developed by the State Department of Mental Health pursuant to this chapter.

(d) A related service or designated instruction and service shall only be added to the child's individualized education program by the individualized education program team, as described in Part 30 (commencing with Section 56000) of the Education Code, if a formal assessment has been conducted pursuant to this section, and a qualified person conducting the assessment recommended the service in order for the child to benefit from special education. Nothing in this section shall prevent a parent from obtaining an independent assessment in accordance with subdivision (b) of Section 56329 of the Education Code, which shall be considered by the individualized education program team.

(e) Whenever a related service or designated instruction and service specified in subdivision (b) or (c) is to be considered for inclusion in the child's individualized education program, the local education agency shall invite the responsible public agency representative to meet with the individualized education program team to determine the need for the service and participate in developing the individualized education program. If the responsible public agency representative cannot meet with the individualized education program team, then the representative shall provide written information concerning the need for the service pursuant to subdivision (d) of this section. Conference calls, together with

written recommendations, are acceptable forms of participation. A copy of the information shall be provided by the responsible public agency to the parents or any adult pupil for whom no guardian or conservator has been appointed.

7572.5. (a) When an assessment is conducted pursuant to Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of Division 4 of the Education Code, which determines that a child is seriously emotionally disturbed, as defined in Section 300.5 of Title 34 of the Code of Federal Regulations, and any member of the individualized education program team recommends residential placement based on relevant assessment information, the individualized education program team shall be expanded to include:

(1) A representative of the county mental health department.

(2) A representative of the county welfare department.

(b) The expanded individualized education program team shall review the assessment and determine whether:

(1) The child's needs can reasonably be met through any combination of nonresidential services, preventing the need for out-of-home care.

(2) Residential care will enable the child to benefit from educational services.

(3) Residential services are available which address the needs identified in the assessment and which will ameliorate the conditions leading to the seriously emotionally disturbed designation.

(c) If the review required in subdivision (b) results in an individualized education program which calls for residential placement, the individualized education program shall include all the items outlined in Section 56345 of the Education Code, and shall also include:

(1) Specification of a lead case manager from among the public agency representatives on the team.

(2) Provision for a review of the case progress, the continuing need for out-of-home placement, the extent of compliance with the individualized education program, and progress toward alleviating the need for out-of-home care, by the full individualized education program team at least every six months.

(3) Specific plans for reunification services pursuant to Section 16507.4 of the Welfare and Institutions Code to the parents, so that the child's return home may be appropriately planned for at the earliest time consistent with the child's best interests.

(d) The individualized education program process, with its procedural safeguards and access to appeal procedures, is deemed to meet requirements of an administrative review hearing as called for in Section 475 of the federal Social Security Act (42 U.S.C. Sec. 675), as amended by P.L. 96-272, for purposes of establishing eligibility for foster care maintenance payments.

(e) The superintendent shall enter into an agreement with the Director of the State Department of Social Services which permits

the supervision of placement and care of a child placed out of home pursuant to an individualized education program to be done by the individualized education program team established above. The agreement shall specify how case supervision responsibilities shall be assigned to assure compliance with Chapter 5 (commencing with Section 16500) of Part 4 of Division 9 of the Welfare and Institutions Code, P.L. 96-272 and Part 30 (commencing with Section 56000) of Division 4 of the Education Code.

7573. The Superintendent of Public Instruction shall ensure that local education agencies provide special education and those related services and designated instruction and services contained in a child's individualized education program that are necessary for the child to benefit educationally from his or her instructional program. Local education agencies shall be responsible only for the provision of those services which are provided by qualified personnel whose employment standards are covered by the Education Code and implementing regulations.

7574. Notwithstanding any other provision of law, the State Department of Health Services, or any designated local public health agencies, shall be responsible for medical services which are provided by a licensed physician and surgeon to determine a child's medically related handicapping condition which results in the child's need for special education and related services.

7575. (a) Notwithstanding any other provision of law, the State Department of Health Services, or any designated local agency administering the California Children's Services, shall be responsible for the provision of occupational therapy and physical therapy, as specified by Section 250 et seq. of the Health and Safety Code, by reason of medical diagnosis and when contained in the child's individualized education program.

(b) The department shall determine whether a California Children's Services eligible pupil, or a pupil with a private medical referral is within the scope of its statutory responsibilities. A private medical referral shall be based on a written report indicating the disability from a licensed physician and surgeon who has examined the pupil.

(c) When the California Children's Services panel physician disagrees with the private referral, the referral shall be treated by the individualized education program team as an educational recommendation only. The individualized education program team shall have the responsibility to determine if the services recommended are necessary for the pupil to benefit from special education. Upon this determination, and notwithstanding Section 7573, the provision of these services shall be the responsibility of the local educational agency.

(d) The department shall provide the service directly or by contracting with another public agency, qualified individual, or a state-certified nonpublic nonsectarian school or agency.

(e) Local education agencies shall provide necessary space and

equipment for the provision of occupational therapy and physical therapy in the most efficient and effective manner.

(f) The department shall also be responsible for providing the services of an aide when the local education agency considers a less restrictive placement from home to school for a pupil for whom the California Medical Assistance Program provides a life-maintaining medical service during the time in which the pupil would be in school.

7576. Notwithstanding any other provision of law, the State Department of Mental Health, or any designated community mental health service, shall be responsible for the provision of psychotherapy or other mental health services when required in the child's individualized education program. This service shall be provided directly or by contracting with another public agency, qualified individual, or a state-certified nonpublic, nonsectarian school or agency.

7577. (a) The State Department of Rehabilitation and the State Department of Education shall jointly develop assessment procedures for determining client eligibility for State Department of Rehabilitation services for handicapped pupils in secondary schools to help them make the transition from high school to work. The assessment procedures shall be distributed to local education agencies.

(b) The State Department of Rehabilitation shall maintain the current level of services to secondary school pupils in project work ability and shall seek ways to augment services with funds which may become available.

7578. The provision of special education programs and related services for handicapped children residing in state hospitals shall be ensured by the State Department of Developmental Services, the State Department of Mental Health and the Superintendent of Public Instruction in accordance with Chapter 8 (commencing with Section 56850) of Part 30 of Division 4 of Title 2 of the Education Code.

7579. (a) Prior to placing a child suspected of being handicapped in a residential facility, outside the child's home, a court, regional center for the developmentally disabled, or public agency other than an educational agency, shall notify the administrator of the special education local plan area in which the residential facility is located. The administrator of the special education local plan area shall provide the court or other placing agency with information about the availability of an appropriate public or nonpublic, nonsectarian special education program in the special education local plan area where the residential facility is located.

(b) Notwithstanding Section 56159 of the Education Code, the involvement of the administrator of the special education local plan area in the placement discussion, pursuant to subdivision (a), shall in no way obligate a public education agency to pay for the residential costs and the cost of noneducational services for a child

placed in a licensed children's institution or foster family home.

(c) It is the intent of the Legislature that this section will encourage communication between the courts and other public agencies which engage in referring children to, or placing children in, residential facilities, and representatives of local education agencies. It is not the intent of the section to hinder the courts or public agencies in their responsibilities for placing handicapped children in residential facilities when appropriate.

7580. Prior to licensing a community care facility, as defined in Section 1502 of the Health and Safety Code, in which a handicapped child may be placed, or prior to a modification of such a facility's license to permit expansion of the facility, the State Department of Social Services shall consult with the administrator of the special education local plan area in order to consider the impact of licensure upon local education agencies.

7581. The residential and noneducational costs of a child placed in a medical or residential facility by a public agency, other than a local education agency, or independently placed in a facility by the parent of the child, shall not be the responsibility of the state or local education agency, but shall be the responsibility of the placing agency or parent.

7582. Therapy treatment services provided under programs of the State Department of Health Services or State Department of Mental Health, or their designated local agencies, rendered in the public schools, shall be exempt from financial eligibility standards and family repayment requirements for these services when rendered to any handicapped child when the services are necessary for the child to benefit from special education.

7583. Each local agency affected by this chapter shall estimate expenditures which were previously borne by the agency which will, as a result of enactment of this chapter, shift to another agency, or shall identify and estimate its responsibility for expenditures which will be acquired by the agency as a result of enactment of this chapter. The agency shall report the estimated shifts in responsibility in costs through appropriate state agencies by March 15, 1985, and report actual shifts in expenditures annually by March 15 in subsequent years. The appropriate state agencies shall submit this information to the Department of Finance annually by April 30.

(b) The Department of Finance shall, in the annual Budget Act, recommend appropriate adjustments, if any, in allocations and entitlements to local agencies to reflect any shifts in expenditures caused by this chapter.

(c) Any reductions in state allocations for local educational agencies resulting from this chapter shall be applied equally on a pro rata basis by the Superintendent of Public Instruction.

(d) By January 15, 1985, the superintendent and the Secretary of Health and Welfare shall jointly develop uniform data collection forms to be used by local agencies in reporting under this section.

7584. As used in this chapter, "handicapped children", "child," or

"pupil" means individuals with exceptional needs as defined in Section 56026 of the Education Code.

7585. (a) Whenever any department or any local agency designated by that department fails to provide a related service or designated instruction and service required pursuant to Section 7575 or 7576, and specified in the child's individualized education program, the parent, adult pupil, or any local education agency referred to in this chapter, shall submit a written notification of the failure to provide the service to the Superintendent of Public Instruction or the Secretary of Health and Welfare.

(b) When either the Superintendent of Public Instruction or the Secretary of Health and Welfare receives a written notification of the failure to provide a service as specified in subdivision (a), a copy shall immediately be transmitted to the other party. The superintendent, or his or her designee, and the secretary, or his or her designee, shall meet to resolve the issue within 15 calendar days of receipt of the notification. A written copy of the meeting resolution shall be mailed to the parent, the local education agency, and affected departments, within 10 days of the meeting.

(c) If the issue cannot be resolved within 15 calendar days to the satisfaction of the superintendent and the secretary, they shall jointly submit the issue in writing to the Director of the Office of Administrative Hearings, or his or her designee, in the State Department of General Services.

(d) The Director of the Office of Adminstrative Hearings, or his or her designee, shall review the issue and submit his or her findings in the case to the superintendent and the secretary within 30 calendar days of receipt of the case. The decision of the Director of the Office of Administrative Hearings, or his or her designee, shall be binding on the departments and their designated agencies who are parties to the dispute.

(e) If the meeting, conducted pursuant to subdivision (b), fails to resolve the issue to the satisfaction of the parent or local education agency, either party may appeal to the Director of the Office of Administrative Hearings, whose decision shall be the final administrative determination and binding on all parties.

(f) Whenever notification is filed pursuant to subdivision (a), the pupil affected by the dispute shall be provided with the appropriate related service or designated instruction and service pending resolution of the dispute, if the pupil had been receiving the service. The Superintendent of Public Instruction and the Secretary of Health and Welfare shall ensure that funds are available for provision of the service pending resolution of the issue pursuant to subdivision (e).

(g) Nothing in this section prevents a parent or adult pupil from filing for a due process hearing under Section 7586.

(h) The Superintendent of Public Instruction and the Secretary of Health and Welfare shall submit to the Legislature on July 1 of each year a joint report on the written notifications received pursuant to

subdivision (a) on the failure of departments or their designated local agencies to provide occupational therapy, physical therapy, or psychotherapy. This joint report shall include, but not be limited to, a description of the nature of these disputes, a summary of the outcomes of these disputes, and any recommendations for changes to the procedure set forth in subdivision (a) or with regard to any interagency agreement and regulations which might exist as a result of the implementation of this chapter.

(i) The contract between the State Department of Education and the Office of Administrative Hearings for conducting due process hearings shall include payment for services rendered by the Office of Administrative Hearings which are required by this section.

7586. (a) All state departments, and their designated local agencies, shall be governed by the procedural safeguards required in Section 1415 of Title 20 of the United States Code. A due process hearing arising over a related service or designated instruction and service shall be filed with the Superintendent of Public Instruction. Resolution of all issues shall be through the due process hearing process established in Chapter 5 (commencing with Section 56500) of Part 30 of Division 4 of the Education Code. The decision issued in the due process hearing shall be binding on the department having responsibility for the services in issue as prescribed by this chapter.

(b) Upon receipt of a request for a due process hearing involving an agency other than an educational agency, the Superintendent of Public Instruction shall immediately notify the state and local agencies involved by sending a copy of the request to the agencies.

(c) All hearing requests that involve multiple services that are the responsibility of more than one state department shall give rise to one hearing with all responsible state or local agencies joined as parties.

(d) No public agency, state or local, may request a due process hearing pursuant to Section 56501 of the Education Code against another public agency.

7587. By July 1, 1985, each state department named in this chapter shall develop regulations, as necessary, for the department or designated local agency to implement this act. All regulations shall be reviewed and approved by the Superintendent of Public Instruction prior to filing with the Office of Administrative Law, in order to ensure consistency with federal and state laws and regulations governing the education of handicapped children.

7588. This chapter shall become operative on July 1, 1985, except Section 7583 which shall become operative on January 1, 1985.

SEC. 3. Section 11401 of the Welfare and Institutions Code is amended to read:

11401. Aid in the form of AFDC-FC shall be provided under this chapter on behalf of any child under the age of 18, except as provided in Section 11403, who meets the conditions of subdivision (a), (b), or (c):

(a) The child has been relinquished, for purposes of adoption, to a licensed adoption agency, or the department, or the parental rights of either or both of his or her parents have been terminated after an action under the Civil Code has been brought by a licensed adoption agency or the department, provided that the licensed adoption agency or the department, if responsible for placement and care, provides to such children all services as required by the department to children in foster care.

(b) The child has been deprived of parental support or care due to any of the reasons set out under Section 11250, provided:

(1) The child has been removed from the physical custody of his or her parent or guardian, and

(A) Has been adjudged a dependent child of the court on the grounds that he or she is a person described by Section 300, or

(B) Has been adjudged a ward of the court on the grounds that he or she is a person described by Sections 601 and 602, or

(C) Has been detained under a court order pursuant to Section 320 or 636 which remains in effect; or

(D) Has been placed out of home pursuant to an individualized education program developed under Section 7572.5 of the Government Code.

(2) The child has been voluntarily placed by his or her parent or guardian pursuant to Section 11401.1 or in a demonstration county, pursuant to Section 16550, et seq.; or

(3) The child is living in the home of a nonrelated legal guardian.

(c) The child has been placed in foster care under the provisions of the federal Indian Child Welfare Act. The provisions of Sections 11402, 11404, and 11405 shall not be construed as limiting payments to Indian children, as defined in the federal Indian Child Welfare Act, placed in accordance with such act.

SEC. 4. As part of the March 15, 1985, report which is required to be submitted by local education agencies to the Superintendent of Public Instruction under Section 7583 of the Government Code, a school district or county office of education shall report all of the following:

(a) The estimated expenditures of state local assistance funds for special education and federal funds for special education for the 1984–85 fiscal year used for the provision of occupational therapy, physical therapy, and psychotherapy.

(b) The number of handicapped pupils receiving occupational therapy, physical therapy, and psychotherapy at the time of the April pupil count.

(c) The name of the agency providing the occupational therapy, physical therapy, or psychotherapy, including the name of the agency paying for the service.

SEC. 5. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is

recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 6. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1748

An act to amend Sections 5620, 5621, 5622, 5624, 5625, 5627, 5628, 5629, and 5630 of, to amend the heading of Chapter 3.2 (commencing with Section 5620) of Division 5 of, and to add Sections 5624.5, 5624.6, and 5625.3 to, the Public Resources Code, relating to parks and recreation.

[Approved by Governor September 26, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. The heading of Chapter 3.2 (commencing with Section 5620) of Division 5 of the Public Resources Code is amended to read:

CHAPTER 3.2. ROBERTI-Z'BERG-HARRIS URBAN OPEN-SPACE AND RECREATION PROGRAM

SEC. 1.2. Section 5620 of the Public Resources Code is amended to read:

5620. This chapter shall be known, and may be cited as, the Roberti-Z'berg-Harris Urban Open-Space and Recreation Program Act.

SEC. 1.4. Section 5621 of the Public Resources Code is amended to read:

5621. As used in this chapter:

(a) "City" includes the City and County of San Francisco; "county" does not include the City and County of San Francisco.

(b) "Districts" means regional park districts formed under Article 3 (commencing with Section 5500) of Chapter 3; recreation and park districts formed under Chapter 4 (commencing with Section 5780); any public utility district formed under Division 7 (commencing with Section 15501) of the Public Utilities Code in a nonurbanized area that employs a full-time park and recreation director and offers year-round park and recreation services on lands and facilities owned by the district; any community services district formed under Division 3 (commencing with Section 61000) of Title 6 of the

Government Code in a nonurbanized area which is authorized to provide public recreation as specified in subdivision (e) of Section 61600 of the Government Code; any memorial district formed under Chapter 1 (commencing with Section 1170) of Division 6 of the Military and Veterans Code that employs a full-time park and recreation director and offers year-round park and recreation services on lands and facilities owned by the district; and the Malaga County Water District exercising powers authorized under Section 31133 of the Water Code.

(c) "Urbanized area" consists of a central city or cities and surrounding closely settled territory, as determined by the Department of Finance on the basis of the most recent verifiable census data. "Urbanized county" means any county, except the City and County of San Francisco, with a population of 200,000 or more, as determined by the Department of Finance on the basis of the most recent verifiable census data.

(d) "Heavily urbanized area" means a large city with a population of 300,000 or more and a large county or regional park district with a population of 1,000,000 or more, as determined by the Department of Finance on the basis of the most recent verifiable census data.

(e) "Nonurbanized area" means any city, county, or district which does not qualify as an urbanized area or urbanized county under the definitions in subdivision (c).

(f) "Block grant" means the allocation of moneys for one or more projects for the acquisition or development of recreational lands and facilities.

(g) "Need basis grant" means the allocation of moneys for one or more projects for the acquisition or development of recreational lands and facilities on a project-by-project basis, based upon need.

(h) "Account" means the Roberti-Z'berg-Harris Urban Open-Space and Recreation Program Account in the General Fund.

(i) "Special major maintenance project" means a rehabilitation or refurbishing activity performed on an annual or more infrequent interval, excluding capital improvements and routinized or other regularly scheduled and performed tasks such as grounds mowing, hedge trimming, garbage removal, and watering. Special major maintenance project includes activities which will reduce energy requirements to operate recreational lands or facilities.

(j) "Innovative recreation program" means specially designed, creative social, cultural, and human service activities which by their nature are intended to respond to the unique and otherwise unmet recreation needs of special urban populations, including, but not limited to, senior citizens, physically or emotionally handicapped, chronic and "new" poor, single parents, "latchkey" children, and minorities. The term includes special transportation programs designed to facilitate access of these groups to parks and recreational programs and facilities.

SEC. 2. Section 5622 of the Public Resources Code is amended to read:

5622. The Legislature hereby finds and declares:

(a) The demand for recreation areas, facilities, and programs in California is far greater than the present supply, with the number of people who cannot be accommodated at the area of their choice or any comparable area increasing rapidly.

(b) The demand for recreation areas, facilities, and programs in the urban areas of our state are even greater: over 90 percent of the present population of California reside in urban areas; there continues to be approximately a 30-percent deficiency in open-space and recreation areas in the metropolitan areas of the state; less urban land is available, costs are escalating, and competition for land is increasing; and lack of sufficient annual operating funds has resulted in a general deterioration of existing facilities.

(c) There is a high concentration of urban social problems in California's major metropolitan areas which can be partially alleviated by increased recreational opportunities.

(d) Within the urban areas there reside a broad spectrum and heavy concentration of special populations, including senior citizens, physically and emotionally handicapped, chronic and "new" poor, single parents, "latchkey children," and minorities, who typically are unable, because of a variety of limiting circumstances, to avail themselves of use of remote, nonurban state and national parks and open spaces.

(e) The upward spiral in the cost of energy for private automobiles and all forms of public transportation during the recent period has further limited access to remote state and national parks and open spaces, and this provides an additional emphasis to the urgent need for close-to-home urban parks and open spaces.

(f) The need for local recreation areas, facilities, and programs is doubling at 10-year intervals.

(g) Unless the lands and waters that currently have significant recreation potential today are acquired or reserved for recreation as soon as possible, and unless there is a means available to provide a regularized, major rehabilitation program for existing facilities, there will be a marked shortage of recreation lands and waters on a local and regional basis.

(h) Cities, counties, and districts must exercise constant vigilance to see that the recreation lands and facilities they now have are not lost to other uses; they should acquire additional lands as such lands become available; and they should take steps to improve the facilities they now have.

(i) The state recognizes its partnership role with local government agencies and officials, in support of acquisition, development, and major rehabilitation of parks and open spaces in urbanized areas and heavily urbanized areas, as a means of fulfilling state support, and a proper level of response to the overwhelmingly large percentage of state residents whose parks and open-space needs can only be addressed in urban settings.

(j) The state further recognizes that every effort is necessary and

appropriate to find and utilize resources, other than those secured exclusively through tax levies, in order to support and maintain this significant urban program.

(k) In view of the foregoing, the Legislature declares that an aggressive, coordinated, funded program for meeting existing and projected local recreation demands must be implemented without delay.

SEC. 2.5. Section 5624 of the Public Resources Code is amended to read:

5624. (a) The program established by this chapter shall be administered by the Department of Parks and Recreation.

(b) The Roberti-Z'berg-Harris Urban Open-Space and Recreation Program Account is hereby created in the General Fund and the money therein is hereby continuously appropriated, without regard to fiscal years, to the department for the program established by this chapter and funded pursuant to Item 271 of the Budget Act of 1976, Item 227 of the Budget Act of 1977, Item 222 of the Budget Act of 1978, Item 235 of the Budget Act of 1979, and Section 4 of Chapter 1166 of the Statutes of 1979, and pursuant to statutes enacted subsequent thereto that appropriate funds for this program.

(c) The unallocated balance in the General Fund appropriated pursuant to Item 271 of the Budget Act of 1976, Item 227 of the Budget Act of 1977, Item 222 of the Budget Act of 1978, Item 235 of the Budget Act of 1979, and Section 4 of Chapter 1166 of the Statutes of 1979 is hereby transferred to the account.

SEC. 3. Section 5624.5 is added to the Public Resources Code, to read:

5624.5. An amount equal to one dollar and fifty cents ($1.50) per capita of the state on the January 1 of the fiscal year immediately preceding the fiscal year in which the transfer is made, as specified in the Budget Act, shall be transferred annually to the Roberti-Z'berg-Harris Urban Open-Space and Recreation Program Account from the Special Account for Capital Outlay in the General Fund for the 1986–87 fiscal year and for each fiscal year thereafter. Notwithstanding Section 5624, the funds transferred to the account pursuant to this section shall be available for expenditure only when appropriated by the Legislature in the annual Budget Act. This section shall not preclude the Legislature from augmenting this amount for the Roberti-Z'berg-Harris Urban Open-Space and Recreation Program from other fund sources, including tideland oil revenues.

SEC. 3.5. Section 5624.6 is added to the Public Resources Code, to read:

5624.6. Notwithstanding any other provision of this chapter, grants from moneys appropriated from the Parklands Fund of 1984 shall be made according to, and are governed by, this chapter as it existed on June 5, 1984. However, Section 5625.3, where applicable, shall be complied with regardless of the source of moneys for the grant.

SEC. 4. Section 5625 of the Public Resources Code is amended to read:

5625. (a) Annual grants shall be made to cities, counties, and districts for recreational purposes, open-space purposes, or both, on the basis of population and need, as specified in this chapter. The director shall, by regulation, specify the procedures to be followed in applying for grant funds. The director shall propose criteria for determining priority of need, conduct public hearings on those proposed criteria, and, following the hearings, shall submit the proposed criteria to the Legislature on or before November 30, 1976, for its approval by statute within 60 days of submission of the criteria. Any new, revised, or amended criterion or any criterion to be deleted shall be submitted to the Legislature for its approval by statute. Following legislative approval, the director shall establish the criteria and publish them in the California Administrative Code. The criteria, and any change thereof, shall be distributed in any convenient form to potential applicants.

(b) The director shall, by regulation, require the recipient of a grant under this chapter to submit periodic reports to the department with respect to its use of the grant, but the reports shall not be required to be submitted more frequently than annually.

(c) All projects and programs for which a grant is received shall be subject to state audit.

SEC. 5. Section 5625.3 is added to the Public Resources Code, to read:

5625.3. In addition to the application procedures specified pursuant to subdivision (a) of Section 5625, prior to submitting an application for a grant for a project involving the acquisition of productive agricultural lands or other lands the acquisition of which may have an adverse economic impact on neighboring agricultural operations, the city, county, or district proposing to make the application shall hold a public hearing within the county in which the proposed project is located at which members of the public may comment on the proposed project. Notice of the hearing shall be published at least twice in a newspaper of general circulation in the county. A summary of comments made at the hearing by members of the public and representatives of the city, county, or district shall accompany the application. Copies of the summary shall also be available for inspection and review by any person.

SEC. 6. Section 5627 of the Public Resources Code is amended to read:

5627. (a) Grant moneys received pursuant to this chapter shall be expended for high priority projects that satisfy the most urgent park and recreation needs, with emphasis on unmet needs in the most heavily populated and most economically disadvantaged areas within each jurisdiction.

(b) Grants received pursuant to this chapter shall be expended only for acquisition, development, or both, except that not more than 30 percent of the amount received by a city, county, or district in an

annual period may be utilized for special major maintenance projects, provided the projects are related to land acquired or developed, or both, in whole or in part, with state moneys under this chapter, or for innovative recreation programs, or for both.

(c) Grants to cities, counties, and districts pursuant to this chapter shall be on the basis of 70 percent state money and 30 percent local matching money, not less than one-third of which shall be from private or nonstate sources of funds, for the project. Grants for acquisition shall be matched only by money or property donated to be part of the acquisition project. Grants for development may be matched by monetary contributions or, if nonmonetary contributions, as provided in regulations and standards which shall be established by the director after a public hearing. The component of local matching money consisting of funds from private or nonstate sources may, at the option of the grant recipient, be calculated as a percentage of the total amount granted in that fiscal year to a grant recipient, rather than on a project-by-project basis.

(d) The component of local matching money from private or nonstate sources required by subdivision (c) may be in the form of and include, but is not limited to, the following: cash donations, gifts of real property, equipment, and consumable supplies, volunteer services, free or reduced-cost use of lands, facilities, or equipment, and bequests and earnings from wills, estates, and trusts. Funds from nonstate sources that qualify for the purposes of subdivision (c) are funds from the federal government and local public agencies other than the grant recipient. Real property, cash, or other assets required to be transferred to a public agency pursuant to Section 66477 of the Government Code or any other provision of law shall not qualify as funds from a private or nonstate source; however, they shall qualify as the monetary or nonmonetary contribution required to be furnished by the grant recipient pursuant to subdivision (c).

(e) The grant recipient shall certify to the department that there is available, or will become available prior to the encumbrance of any state funds for any work on the project for which application for a grant has been made, matching money from private or nonstate sources. Certification of the source and amount of nonstate funds shall be set forth in the application for a grant submitted to the department. However, in recognition of the fact that raising private funds frequently requires an initial evidence of matching public funds, the certification of the source and amount of the private funds shall be made by the applicant at least 30 days prior to actual release of state funds.

(f) Local matching money shall not be required with respect to an applicant that has urgent unmet needs for recreational lands and lacks the financial resources to acquire recreational lands, as determined pursuant to a formula set forth in regulations adopted by the director after a public hearing. In addition, with respect to applications for grants submitted for areas where private financial resources are of limited availability or submitted for projects or

programs that are not of a type likely to attract private funds, the director shall, if the project conforms to regulations adopted by the department, waive the requirement that at least one-third of local matching money be from private sources. The regulations shall establish criteria and procedures for the waiver and shall be adopted, after one or more public hearings, on or before March 1, 1986. These criteria may provide for consideration of the average per capita income, unemployment rate, crime rate, and recent history of plant or business closures in the area of the applicant's jurisdiction where the grant will be expended.

SEC. 7. Section 5628 of the Public Resources Code is amended to read:

5628. Sixty-nine percent of the moneys available for grant purposes in any one fiscal year shall be available only for block grants to cities, counties, and districts in urbanized areas for the acquisition or development of, or for special major maintenance of, recreational lands and facilities, or for innovative recreation programs, and shall be apportioned on the basis of population in the following manner:

(a) Sixty percent of the moneys shall be allocated to cities and to recreation and park districts in urbanized areas in the proportion that the population of the jurisdiction bears to the population of all cities and recreation and park districts in urbanized areas throughout the state. Recognizing that the boundaries of cities and of recreation and park districts may overlap, only the population of the jurisdiction which will actually provide and administer the recreational service contemplated shall be counted in the area of overlapping jurisdiction. The population of recreation and park districts within urbanized areas shall be certified by the board of supervisors of each county.

(b) Forty percent of the moneys shall be allocated to urbanized counties and to regional park districts in urbanized areas in the proportion that the total population of the jurisdiction bears to the total population of all urbanized counties and regional park districts in urbanized areas throughout the state. Recognizing that the boundaries of counties and regional park districts may overlap, only the population of the jurisdiction which will actually provide and administer the recreational service contemplated shall be counted in the area of overlapping jurisdiction.

SEC. 8. Section 5629 of the Public Resources Code is amended to read:

5629. Fourteen percent of the moneys available for grant purposes in any one fiscal year shall be available only for block grants to cities, counties, and regional park districts in heavily urbanized areas for the acquisition or development of, or for special major maintenance of, recreational lands and facilities, or for innovative recreation programs, and shall be apportioned on the basis of population in the following manner:

(a) Sixty percent of the moneys shall be allocated to large cities which constitute heavily urbanized areas in the proportion that the

population of the recipient bears to the population of all cities and recreation and park districts in heavily urbanized areas throughout the state.

(b) Forty percent of the moneys shall be allocated to large counties and regional park districts which constitute heavily urbanized areas in the proportion that the total population of the recipient bears to the total population of all large counties and regional park districts which constitute heavily urbanized areas throughout the state. Recognizing that the boundaries of counties and regional park districts may overlap, only the population of the jurisdiction which will actually provide and administer the recreational service contemplated shall be counted in the area of overlapping jurisdiction.

SEC. 9. Section 5630 of the Public Resources Code is amended to read:

5630. Seventeen percent of the moneys available for grant purposes in any one fiscal year shall be available only for need basis grants to cities, counties, and districts on a project-by-project basis and on the basis of need for the acquisition or development of, or for special major maintenance of, recreational lands and facilities, or for innovative recreation programs, on the following basis:

(a) Eighty-eight percent of the moneys shall be available for grants to cities, counties, and districts in nonurbanized areas on a project-by-project basis and on the basis of need for the acquisition or development of, or for special major maintenance of, recreational lands and facilities, or for innovative recreation programs. The criteria for determining need shall include, but are not limited to, deficiencies in existing park and recreational lands and facilities, the impact of participants from outside the jurisdiction, and the overall merit of the grant proposal.

(b) Twelve percent of the moneys shall be available for grants to cities and recreation and park districts in urbanized areas on a project-by-project basis and on the basis of need for the acquisition or development of, or special major maintenance of, recreational lands and facilities, or for innovative recreation programs. The criteria for determining need shall include, but are not limited to, population density and the inability to complete park and recreation projects due to low total assessed valuation in the jurisdiction. Jurisdictions eligible for funds under subdivision (a) of Section 5629 shall not be eligible for funds under this section.

SEC. 10. (a) The Director of Parks and Recreation shall propose revised criteria for determining priority of need among block grants made pursuant to Sections 5628 and 5629 of the Public Resources Code, shall hold at least one public hearing on the revised criteria, and, not later than March 31, 1986, shall submit the revised criteria to the Legislature for its approval by statute, as provided in Section 5625 of the Public Resources Code. None of the criteria proposed pursuant to this section shall be applicable to need basis grants made pursuant to Section 5630 of the Public Resources Code.

(b) The revised criteria proposed pursuant to this section shall provide recognition to all of the following:

(1) Preservation and improvement of the physical environment.

(2) Preservation and improvement of historical and cultural facilities.

(3) Availability of public transportation as a major access feature.

(4) Proper facilities and services to accommodate the needs of senior citizens.

(5) Improved access for handicapped persons.

(6) Recreational program and facilities which anticipate and properly provide for the unique needs of special populations, including, but not limited to, new immigrants, traditional minorities, single parents, and "latchkey children."

(7) Cooperative financing and planning among local public agencies.

(8) Special features of significance in urban settings, including arts and mural programs, and other types of programs which significantly enhance the total park environment and its utilization simultaneously with providing positive forms of youth training and employment.

CHAPTER 1749

An act to amend Section 17764 of, and to add Sections 17708.5 and 17739.2 to, the Education Code, to amend Section 15490 of the Government Code, to amend Section 6217 of the Public Resources Code, and to amend Section 11.10 of Chapter 258 of the Statutes of 1984, relating to schools, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

The continued presence of asbestos within our public school facilities poses a significant threat to all who enter those buildings. This legislation provides an appropriation to support a realistic program of cooperative funding to remove asbestos from the public schools of our state.

However, federal funds will soon be made available to California as a result of passage of recent federal legislation (the "Asbestos School Hazard Abatement Act of 1984"). Therefore, in order to avoid supplanting issues, I am reducing the appropriation contained in Section 6 of Senate Bill No. 1297 for State support of asbestos abatement programs from $22.5 million to $10 million for 1984–85.

In addition, to assure that this program attains its desired result of eliminating asbestos from our public schools, I will see that the 1985–86 Budget proposes appropriations sufficient to provide the support necessary to fund the state's portion of asbestos abatement programs in the public schools.

While I am signing this bill, I am concerned about the $65,000,000 allocation from Tidelands Oil Revenue to the Energy and Resources Fund beginning in the Fiscal Year 1985–86. Circumstances may require that this allocation be reduced in any future Governor's Budget.

With this reduction, I approve Senate Bill No. 1297.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 17708.5 is added to the Education Code, to read:

17708.5. The board may approve projects and make apportionments in amounts not exceeding those funds on deposit in the State School Building Lease-Purchase Fund plus any amount of bonds authorized by the State School Building Finance Committee but not yet sold by the Treasurer.

Disbursements may be made under any apportionment made from any funds in the State School Building Lease-Purchase Fund, irrespective of whether there exists at the time of the disbursement a sufficient amount in the State School Building Lease-Purchase Fund to permit payment in full of all apportionments previously made. However, no disbursement shall be made from any funds required by law to be transferred to the General Fund.

SEC. 2. Section 17739.2 is added to the Education Code, to read:

17739.2. Of the moneys reserved for rehabilitation or modernization of facilities pursuant to Section 17739.1, the board may reserve not more than twenty-five million dollars ($25,000,000) for apportionments to school districts which, based on the following criteria, the board has determined to be in severe need of the apportionment. The apportionment shall be for purposes of site acquisition and the construction of school facilities for school sites which meet one or more of the following conditions:

(a) The school site is not less than 30 years of age.

(b) The school site has accommodated a significant increase in enrollment during the last 10-year period.

(c) Enrollment increases have been accommodated by placing relocatable structures on the school site without expanding the school site.

(d) The school site has inadequate playground space for its enrollment.

(e) The school site has inadequate meal facilities, and those facilities are used for more than three times the number of pupils for which the facilities were originally designed.

SEC. 2.5. Section 17764 of the Education Code is amended to read:

17764. This chapter shall remain in effect only until the later of the following dates, and on that date is repealed, unless a later enacted statute changes the requirements of this section:

(a) June 30, 1989.

(b) The operative date of the Budget Act for a fiscal year after 1984–85 which Budget Act does not contain a section authorizing the operation of this section for that fiscal year.

SEC. 3. Section 15490 of the Government Code is amended to

read:

15490. (a) There is in the state government the State Allocation Board, consisting of the Director of Finance, the Director of General Services, and the Superintendent of Public Instruction. Two Members of the Senate appointed by the Senate Committee on Rules, and two Members of the Assembly appointed by the Speaker, shall meet and, except as otherwise provided by the Constitution, advise with the board to the extent that this advisory participation is not incompatible with their respective positions as Members of the Legislature.

(b) The members of the board and the Members of the Legislature meeting with the board shall receive no compensation for their services but shall be reimbursed for their actual and necessary expenses incurred in connection with the performance of their duties.

(c) The Director of General Services shall provide assistance to the board as the board requires. The board may, by a majority vote of all members, appoint an employee to report directly to the board as assistant executive officer.

SEC. 3.5. Section 6217 of the Public Resources Code, as amended by Chapter 268 of the Statutes of 1984, is amended to read:

6217. With the exception of revenues derived from state school lands and from sources described in Sections 6217.6, 6301.5, 6301.6, 6855, and 8551 to 8558, inclusive, and Section 6406 (insofar as the proceeds are from property which has been distributed or escheated to the state in connection with unclaimed estates of deceased persons), the commission shall deposit in the State Treasury all revenues, moneys, and remittances received by it under this division, and under Chapter 138 of the Statutes of 1964, First Extraordinary Session, and such sums shall be applied to the following obligations in the following order:

(a) To the General Fund such revenue as necessary to provide in any fiscal year for the following:

(1) Payment of refunds, authorized by the commission and approved by the State Board of Control, out of appropriations made for that purpose by the Legislature.

(2) Payment of expenditures of the commission as provided in the annual Budget Act approved by the Legislature.

(3) Payments to cities and counties of the amounts specified in Section 6817 for the purposes specified in that section, and the revenues so deposited are appropriated for such purpose.

(4) Payments to cities and counties of the amounts agreed to pursuant to the provisions of Section 6875.

(b) To the California Water Fund each fiscal year the amount of twenty-five million dollars ($25,000,000).

(c) To the Central Valley Water Project Construction Fund each fiscal year the amount of five million dollars ($5,000,000).

(d) To the Resources Agency, the amount of five hundred thousand dollars ($500,000) for each of the fiscal years 1984–85,

1985–86, 1986–87, 1987–88, and 1988–89 for distribution for public and private higher education for use as up to two-thirds of the local matching share for projects under the National Sea Grant College and Program Act of 1966 (P.L. 89-688) approved, upon the recommendation of the advisory panel appointed pursuant to this section, by the Secretary of the Resources Agency or his or her designee. During the 1988–89 fiscal year, the Legislature shall consider recommendations from the Secretary of the Resources Agency and other interested parties on the benefits to the people of the State of California derived from this program and shall determine whether or not to continue similar appropriations for subsequent fiscal years.

There shall be an advisory panel to the Secretary of the Resources Agency consisting of 13 members, which shall do all of the following:

(1) Identify state needs which might be met through Sea Grant research projects, including, but not limited to, such fields as living marine resources, aquaculture, ocean engineering, marine minerals, public recreation, coastal physical processes and coastal and ocean resources planning and management, and marine data acquisition and dissemination, establish priorities for those needs, and transmit those needs and priorities to the Legislature not later than January 1 of each year and include them in all announcements of proposals for grants in the following fiscal year.

(2) Review all applications for funding under this section and make recommendations based upon the priorities it establishes.

(3) Periodically review progress on sea grant research projects subsequent to their approval and funding under this section.

(4) Make recommendations to the Secretary of the Resources Agency with respect to the implementation of this section.

The Secretary of the Resources Agency shall appoint the following members of the advisory panel, who shall serve at the pleasure of the secretary:

(1) A representative of the Department of Boating and Waterways.

(2) A representative of the Department of Conservation.

(3) A representative of the Department of Fish and Game.

(4) The executive director of the California Coastal Commission or his or her designee.

(5) A representative of the fish industry.

(6) A representative of the aquaculture industry.

(7) A representative of the ocean engineering industry.

(8) A representative of the University of California.

(9) A representative of the California State University.

(10) A representative of a private California institution of higher education which is participating in the National Sea Grant Program.

(11) A representative of the State Lands Commission.

The Senate Committee on Rules shall appoint one Member of the Senate to the panel, who shall serve at the pleasure of the Senate Committee on Rules.

The Speaker of the Assembly shall appoint one Member of the Assembly to the panel, who shall serve at the pleasure of the Speaker. This member shall not be of the same political party as the member appointed by the Senate Committee on Rules.

The Secretary of the Resources Agency shall designate one member of the panel to serve as its chairman. Panel members shall serve without compensation.

The Sea Grant research projects selected for state support under this section shall have a clearly defined benefit to the people of the State of California. The Legislature hereby finds and declares that the funding provided by this section is needed to stimulate the development and utilization of ocean and coastal resources by working constructively with private sector firms and individuals. Nothing in this section shall be construed to preclude the application for funding of any project which would be eligible for funding under the terms of the National Sea Grant College and Program Act of 1966.

(e) To the Capital Outlay Fund for Public Higher Education for the 1984–85 fiscal year the amount of one hundred two million one hundred sixty-eight thousand dollars ($102,168,000), and for each fiscal year thereafter, the amount necessary to provide for an unencumbered balance available for appropriation on July 1 of each fiscal year of one hundred twenty-five million dollars ($125,000,000).

(f) (1) To the State School Building Lease-Purchase Fund, for each of the fiscal years 1985–86, 1986–87, 1987–88, and 1988–89, the amount of one hundred fifty million dollars ($150,000,000).

(2) For the fiscal years 1984–85, 1985–86, 1986–87, 1987–88, and 1988–89, up to 5 percent of the amounts deposited in the State School Building Lease-Purchase Fund pursuant to this section or any other provision of law may be spent in accordance with Sections 17785 to 17795, inclusive, of the Education Code (Emergency School Classroom Law of 1979).

(g) To the Energy and Resources Fund each fiscal year, commencing with the 1985–86 fiscal year, the amount of sixty-five million dollars ($65,000,000).

(h) To the Special Account for Capital Outlay, the balance of all revenues in excess of the amount distributed under subdivisions (a), (b), (c), (d), (e), (f), and (g).

The commission may, with the approval of the State Board of Control, authorize the refund of moneys received or collected by it illegally or by mistake, inadvertence, or error. Claims authorized by the commission and approved by the State Board of Control shall be filed with the Controller and the Controller shall draw his warrant against the General Fund in payment of such refund from any appropriation made for that purpose.

All references in any law to Section 6816 shall be deemed to refer to this section.

SEC. 4. Section 11.10 of Chapter 258 of the Statute of 1984 is amended to read:

11.10. Notwithstanding any other provisions of law, an amount

not to exceed one hundred fifty million dollars ($150,000,000) shall be transferred from the moneys deposited pursuant to Section 6217 of the Public Resources Code to the State School Building Lease-Purchase Fund for the 1984–85 fiscal year. This appropriation shall be made to the extent of funds available after allocations have been made pursuant to subdivisions (a) to (e), inclusive, of Section 6217.

The transfer made by this section shall be in lieu of any appropriation pursuant to Section 37 of Chapter 169, Statutes of 1981.

SEC. 5. The unencumbered balances of the Energy and Resources Fund, the Energy Account in the Energy and Resources Fund, and the Resources Account in the Energy and Resources Fund are hereby reappropriated for transfer to, in augmentation of, the unappropriated balance of the Special Account for Capital Outlay in the 1984–85 fiscal year.

SEC. 6. The sum of twenty-two million five hundred thousand dollars ($22,500,000) is hereby reappropriated from the Special Account for Capital Outlay for transfer to the Asbestos Abatement Fund for expenditure pursuant to AB 2377 of the 1983–84 Regular Session.

SEC. 7. Section 17739.2 of the Education Code, as added by Section 2 of this act, shall become operative only if the State School Building Lease-Purchase Bond Law of 1984, as proposed by Chapter 375 of the Statutes of 1984 (SB 125 of the 1983–84 Regular Session of the Legislature), is adopted by the people of the State of California.

SEC. 8. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to expedite state apportionments for school buildings, and to assist school entities in the acquisition of property for school purposes at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1750

An act relating to health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1984 Filed with Secretary of State September 30, 1984.]

I am deleting the appropriation contained in Section 2 of Assembly Bill No. 3943. I do not believe an expenditure of $200,000 is appropriate for a study to compare rate increases for nursing homes and rate increases for their employees. That is a

matter of private bargaining by the employer and the employees. I believe the expenditure of public funds should more appropriately be used for direct services for the patients of the nursing homes.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. (a) It is the intent of the Legislature that osteopathic medical residency programs for family physicians shall be eligible to compete for the state's Family Physician Training Act funds.

(b) The Health Manpower Policy Commission and the Office of Statewide Health Planning and Development shall conduct a special study on the overall needs for special state funding, through the Family Physician Training Act, of medical residency training programs for family physicians. The study shall include, but not be limited to, an assessment of the long-range need for family physicians in California, the long-range plans and needs of the allopathic family physician medical residency training programs, the long-range plans and needs of the osteopathic family physician residency training programs, criteria to be used in evaluating outcomes of state support of family physician residency training programs, and the level of funding for the Family Physician Training Act. A report on the study shall be provided by the commission to the Legislature and the Governor by May 1, 1985.

SEC. 2. (a) The State Department of Health Services shall conduct a skilled nursing facility expenditure study. The State Department of Health Services may request the cooperation of the Joint Legislative Audit Committee in conducting the study. For the "Salaries, Wages and Benefits" component of annual Medi-Cal rate increases for skilled nursing facilities, the study shall compare both the annual percentage increases provided in this component, including, other rate adjustments, and the annual aggregate Medi-Cal rate increase to the percentage of nonadministrative employees by employee classification for the period beginning with the 1979–80 fiscal year through the 1983–84 fiscal year. For the three other components of the annual Medi-Cal rate increase for skilled nursing facilities, the study shall compare both the annual percentage increases provided in each component and the annual aggregate Medi-Cal rate increase to the average percentage changes in actual expenditures by skilled nursing facilities for the major elements of each of the three components for the same time period as above. Skilled nursing facilities shall be required to make available all necessary and appropriate records as determined by the State Department of Health Services. The study shall compare these factors on a statewide and regional basis consistent with Medi-Cal reimbursement categories. The study shall be submitted to the

Governor, the Legislature, and the Task Force on Long-Term Health Care Reimbursement and Quality no later than April 15, 1985.

(b) The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund to the State Department of Health Services to carry out the study specified in subdivision (a).

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to adequately maintain the family physician training program and to provide for a skilled nursing facility expenditure study as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1751

An act to amend Section 39618 of, to add Sections 39619.6, 39619.8, 39619.9, 49410.2, and 49410.5 to, to add and repeal Section 39619.7 of, and to repeal and add Section 49410 of, the Education Code, relating to asbestos in schools, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984]

The continued presence of asbestos within our public school facilities poses a significant threat to all who enter those buildings. This legislation provides a realistic program of cooperative funding to support projects to remove asbestos from the public schools of our state

However, I believe that the support for the first year of this program should be from the Tidelands Oil Revenue reappropriation found in SB 1297. Therefore, I am eliminating the $22.5 million appropriation contained in Section 10 of Assembly Bill No 2377 in lieu of the one found in SB 1297. In addition, it should be noted that federal funds will soon be made available to California as a result of passage of recent federal legislation (The "Asbestos School Hazard Abatement Act of 1984"). Therefore, in order to avoid supplanting issues, I am reducing the appropriaton for state support of asbestos abatement programs to $10 million for 1984–85

However, to assure that this program attains its desired result of eliminating asbestos from our public schools, I will see that the 1985–86 Budget proposes appropriations sufficient to provide the support necessary to fund the State's portion of asbestos abatement programs in the public schools.

In addition, I am eliminating the second year funding for this program contained in Section 10(b) to allow the determination of needs to be made in the annual budget review process in consideration of actual applications for assistance, and other statewide program needs and available resources.

With this deletion, I approve Assembly Bill No. 2377.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 39618 of the Education Code is amended to read:

39618. (a) The governing board of each school district may establish a restricted fund to be known as the "district deferred maintenance fund" for the purpose of major repair or replacement of plumbing, heating, air conditioning, electrical, roofing, and floor systems, the exterior and interior painting of school buildings, the inspection, sampling, and analysis of building materials to determine the presence of asbestos-containing materials, the encapsulation or removal of asbestos-containing materials, and any other items of maintenance approved by the State Allocation Board. Funds deposited in the district deferred maintenance fund may be received from any source whatsoever, and shall be accounted for separately from all other funds and accounts and retained in the district deferred maintenance fund for purposes of this section.

(b) Funds deposited in the district deferred maintenance fund shall only be expended for maintenance purposes as provided pursuant to subdivision (a).

(c) The governing board of each school district shall have complete control over the funds and earnings of funds once deposited in the district deferred maintenance fund, provided that no funds deposited in the district deferred maintenance fund pursuant to subdivision (a) or (b) of Section 39619 may be expended by the governing board for any purpose except those specified in subdivision (a) of this section.

SEC. 2. Section 39619.6 is added to the Education Code, to read:

39619.6. The State Allocation Board shall develop board policies for the apportionment of funds appropriated for the containment or removal of asbestos materials in schools pursuant to Section 49410. The policies shall provide for the allocation of funds on a matching basis, or the board may determine, based on each application, to increase the allocation to any school district by the amount it determines is necessary to complete critical projects. In making policies pursuant to this section, the board may establish funding priorities based on a determination in each instance as to the imminence of the health hazard posed by the asbestos materials.

SEC. 3. Section 39619.7 is added to the Education Code, to read:

39619.7. (a) For the purpose of Section 39619, the State Allocation Board shall allow each school district to credit one-half of any district general funds spent by the district for the inspection, sampling, analysis, containment, or removal of asbestos materials, during the 1979–80 fiscal year through the 1983–84 fiscal year, which were not part of their deferred maintenance program, as unmatched funds, pursuant to paragraph (a) of Section 39619, in the district's deferred maintenance fund in the 1984–85 fiscal year.

(b) If the credit calculated pursuant to subdivision (a) of this section is greater than the amount that the district could receive from the state apportionment pursuant to paragraph (b) of Section 39619, then the amount that is in excess can be credited as

unmatched funds in the 1985–86 fiscal year.

(c) This section shall become inoperative on June 30, 1986, and, as of January 1, 1987, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1987, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Section 39619.8 is added to the Education Code, to read:

39619.8. During the 1984–85 and 1985–86 fiscal years, in addition to the apportionment provided pursuant to Section 39619, the State Allocation Board may apportion from the State School Deferred Maintenance Fund to a school district one dollar ($1) for each one dollar ($1) of local funds in excess of the maximum provided by subdivision (b) of Section 39619. However, the apportionment shall not exceed an amount equal to one-half of the moneys spent by the district from its deferred maintenance fund for the inspection, sampling, analysis, encapsulation, or removal of asbestos-containing materials during the 1979–80 fiscal year to the 1983–84 fiscal year, inclusive.

SEC. 5. Section 39619.9 is added to the Education Code, to read:

39619.9. The Asbestos Abatement Fund is hereby created, and notwithstanding Section 13340 of the Government Code, all moneys deposited in this fund are continously appropriated to be administered by the State Allocation Board for the purpose of making allocations to school districts and county offices of education pursuant to Sections 39619.6 and 49410.

SEC. 6. Section 49410 of the Education Code is repealed.

SEC. 7. Section 49410 is added to the Education Code, to read:

49410. (a) The Legislature finds that:

(1) There is substantial scientific and medical evidence that human exposure to asbestos fibers significantly increases the likelihood of contracting cancer and other debilitating or fatal diseases such as asbestosis.

(2) Medical and epidemiological evidence suggests that children exposed to asbestos fibers may be especially susceptible to the environmentally induced diseases associated with the exposure.

(3) Substantial amounts of asbestos materials were used in school construction during the period from 1946 through 1973 for fireproofing, soundproofing, decoration, and other purposes.

(4) When these materials age, deteriorate, or become damaged or friable, they release asbestos fibers into the ambient air. This can result in the exposure of school children and school employees to potentially dangerous levels of asbestos fibers.

(5) The presence of asbestos in the air in concentrations far exceeding the normal ambient levels has been found in schools, especially where the asbestos materials have reached a damaged, deteriorated, or disturbed state as a result of abuse, abrasion, water leakage, or forced air circulation.

(6) In view of the fact that the State of California has compulsory attendance laws for children of school age, and these children must be educated in a safe and healthy environment, the hazard

presented by asbestos materials in the schools is of special concern to the Legislature.

(b) As a result of the findings in subdivision (a), it is the intent of the Legislature to provide for the safe and expeditious containment or removal of asbestos materials posing a hazard to health in schools.

(c) As used in this section and Sections 49410.2 and 49410.5, the following terms have the following meanings:

(1) "Asbestos" means naturally occurring hydrated mineral silicates separable into commercially used fibers: specifically chrysotile, amosite, crocidolite, tremolite, anthrophyllite, and actinolite.

(2) "Asbestos materials" means materials formed by mixing asbestos fibers with other products, including, but not limited to, rock wool, plaster, cellulose, clay, vermiculite, perlite, and a variety of adhesives. Some of these materials may be sprayed on surfaces or applied to surfaces in the form of plaster or a textured paint.

(3) "Hazard to health" means that the asbestos material is loose, friable, flaking, or dusting, or is likely to become so within the service life of the material in place.

SEC. 8. Section 49410.2 is added to the Education Code, to read:

49410.2. School districts and county offices of education may apply to the State Allocation Board pursuant to Section 39619.6 for funds for the purposes of containment or removal of asbestos materials posing a hazard to health.

SEC. 9. Section 49410.5 is added to the Education Code, to read:

49410.5. (a) The State Allocation Board shall retain all information provided by school districts making application for funds pursuant to Sections 39619.6, 39619.7, and 39619.8 regarding the actual or estimated cost of inspection and testing for, and encapsulation or removal of, asbestos.

(b) The Legislature finds and declares that:

(1) Federal moneys may be made available to reimburse schools for costs related to asbestos inspection, testing, encapsulation, and removal, and that the distribution of these moneys will be expedited by the early collection of these data.

(2) School districts shall comply with guidelines suggested by the Environmental Protection Agency for the purposes of inspection and testing for asbestos materials, and for the protection and safety of workers and all other individuals during the encapsulation and removal of asbestos.

SEC. 9.5. If AB 3141 is chaptered and becomes effective, the Brea-Olinda Unified School District shall nevertheless be eligible to receive an apportionment of up to one hundred seventy-five thousand dollars ($175,000) pursuant to Section 39619.8 of the Education Code as added by Section 4 of this act. The district may use those funds to repay the loan received by the district pursuant to AB 3141.

SEC. 10. (a) The sum of twenty-two million five hundred thousand dollars ($22,500,000) shall be transferred by the Controller,

from the General Fund to the Asbestos Abatement Fund for the 1984–85 fiscal year, for expenditure by the State Allocation Board in accordance with Section 39619.6 of the Education Code.

(b) On July 1, 1985, the sum of twenty-two million five hundred thousand dollars ($22,500,000) shall be transferred by the Controller, from the General Fund to the Asbestos Abatement Fund for the 1985–86 fiscal year, for expenditure by the State Allocation Board in accordance with Section 39619.6 of the Education Code.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for the expeditious containment or removal of asbestos materials posing a hazard to health in schools, it is necessary that this act take effect immediately.

CHAPTER 1752

An act to amend Section 702 of, and to add Article 5.2 (commencing with Section 1784) to Chapter 1 of Division 2.5 of the Welfare and Institutions Code, relating to youths, and making an appropriation therefor.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

I am deleting the $400,000 appropriation contained in Section 3 of Assembly Bill No. 2761.

Funding for this program should come from available resources within the Department of the Youth Authority.

With this deletion, I approve Assembly Bill No. 2761

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 702 of the Welfare and Institutions Code is amended to read:

702. After hearing the evidence, the court shall make a finding, noted in the minutes of the court, whether or not the minor is a person described by Section 300, 601, or 602. If it finds that the minor is not such a person, it shall order that the petition be dismissed and the minor be discharged from any detention or restriction theretofore ordered. If the court finds that the minor is such a person, it shall make and enter its findings and order accordingly, and shall then proceed to hear evidence on the question of the proper disposition to be made of the minor. Prior to doing so, it may continue the hearing, if necessary, to receive the social study of the

probation officer, to refer the minor to a juvenile justice community resource program as defined in Article 5.2 (commencing with Section 1784) of Chapter 1 of Division 2.5, or to receive other evidence on its own motion or the motion of a parent or guardian for not to exceed 10 judicial days if the minor is detained during the continuance. If the minor is not detained, it may continue the hearing to a date not later than 30 days after the date of filing of the petition. The court may, for good cause shown continue the hearing for an additional 15 days, if the minor is not detained. The court may make such order for detention of the minor or his or her release from detention, during the period of the continuance, as is appropriate.

If the minor is found to have committed an offense which would in the case of an adult be punishable alternatively as a felony or a misdemeanor, the court shall declare the offense to be a misdemeanor or felony.

SEC. 2. Article 5.2 (commencing with Section 1784) is added to Chapter 1 of Division 2.5 of the Welfare and Institutions Code, to read:

Article 5.2. Juvenile Justice Community Resource Programs

1784. The Legislature finds and declares all of the following:

(a) That the mobilization of community resources to assist in providing youthful offenders with necessary educational, psychological, medical, and other services which relate to root causes of delinquency is vital.

(b) That due to increased and heavy caseloads, probation officers cannot be expected to assume the full burden of providing necessary services to youthful offenders.

(c) That addressing the root causes of delinquent behavior in a cost-effective manner yields enormous societal benefits in the prevention of future criminality and the integration of the offender into productive society.

(d) That by encouraging community participation, programs such as the Juvenile Justice Connection Project in Los Angeles County have achieved great success in providing services to young people at a substantial savings to the taxpayer.

(e) That efforts to implement similar projects throughout the state should be encouraged and supported.

1784.1. (a) The Director of the Youth Authority shall, upon request, provide technical assistance to judges, probation officers, law enforcement officials, school administrators, welfare administrators, and other public and private organizations and citizen groups concerning the development and implementation of juvenile justice community resource programs.

(b) As used in this article, "juvenile justice community resource program" means a program which does both of the following:

(1) Develops a directory or bank of public and private agencies, practitioners, and other community resources to offer services that

are needed by youthful offenders, including, but not limited to, medical, psychological, educational, recreational, and vocational services.

(2) Provides diagnostic screening for youthful offenders referred to the program and matches the offender with a provider of services.

(c) As used in this article, "youthful offender" means a person described by Section 601 or 602.

1784.2. (a) The Director of the Youth Authority shall provide grants from funds made available for this purpose, for the development, implementation, and support of juvenile justice community resource programs.

(b) Any public or private nonprofit agency that does not directly deliver services may apply to the director for funding as a juvenile justice community resource program pursuant to this article.

(c) Funding may consist of organizational and program grants.

(1) As used in this article, "organizational grants" means grants for the purpose of funding community organization efforts in order to develop a bank of public and private agencies, and other community resources, to provide services needed by youthful offenders and to provide financial support to the referral program. An applicant may receive only one organizational grant, which may not exceed thirty thousand dollars ($30,000).

(2) As used in this article, "program grants" means grants to support the operating costs of the referral programs. A program grant may not exceed fifty thousand dollars ($50,000) per applicant per year. As a further limitation, beginning in the second year of the program grant, the amount of the program grant may not exceed a prescribed percentage of the referral program's operating budget, as follows: 50 percent in the second year of the program grant, 33 percent in the third year, 25 percent in the fourth year, and 20 percent in the fifth and subsequent years of the program grant.

(d) The director shall consider all of the following factors, together with any other circumstances he or she deems appropriate, in selecting applicants to receive funds pursuant to this article.

(1) The stated goals of applicants.

(2) The number of youthful offenders to be served and the needs of the community.

(3) Evidence of community support, including, but not limited to, business, labor, professional, educational, charitable, and social service groups.

(e) In addition to the factors specified in subdivision (d), in selecting applicants to receive program grants, the director shall also consider all of the following:

(1) Description of the number and type of service providers available.

(2) Existence of support and involvement by participants in the local juvenile justice system, including law enforcement, probation, prosecution, and the judiciary.

(3) The organizational structure of the agency which will operate

the program.

(4) Specific plans for meeting the percentage of local funding of operating costs as specified in paragraph (2) of subdivision (c).

(f) After consultation with the advisory committee, and upon evaluation of all applicants pursuant to the above criteria and any other criteria established by the advisory committee, the director shall select the public or private nonprofit agencies which he or she deems qualified to receive funds for the establishment and operation of the programs.

(g) The initial evaluation, selection, and funding of applicants shall take place prior to January 1, 1986.

(h) Upon establishment of the programs, the director shall conduct appraisals of their performance and shall issue a report on their performance to the Legislature in January of each year. Programs shall be determined to have performed satisfactorily in order to qualify for continuation grants. In evaluating the performance of the programs, the director shall consider, among other things, all of the following:

(1) The number and type of service providers assembled.

(2) The number of clients referred to the program by the juvenile court or probation department.

(3) The number of clients screened by the program.

(4) A description of the number of clients who received services and a description of the type of services delivered.

(5) Estimates of the market value of the services provided.

(6) The amount and sources of local funding.

1784.3. The Director of the Youth Authority shall appoint an eight-member advisory committee on community resource referral programs to advise him or her on matters relating to this article. Committee members shall include representatives of business, labor, professional, charitable, educational, and social service groups, as well as those working within the juvenile justice system. The members of the committee shall be entitled to their reasonable expenses, including travel expenses, incurred in the discharge of their duties.

1784.4. The director may accept funds and grants from any source, public or private, to assist in accomplishing the purposes of this article.

SEC. 3. The sum of four hundred thousand dollars ($400,000) is hereby appropriated from the General Fund to the Youth Authority for the purposes of this act.

CHAPTER 1753

An act to amend Section 51225.3 of the Education Code, relating to schools, and making an appropriation therefor.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

I am deleting the $50,000 appropriation contained in Section 3 of Assembly Bill No. 3212.

The reports required by this bill can be completed by the Department of Education with existing resources.

With this deletion, I approve Assembly Bill No. 3212

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 51225.3 of the Education Code is amended to read:

51225.3. (a) Commencing with the 1986–87 school year, no pupil shall receive a diploma of graduation from high school who, while in grades 9 through 12, has not completed all of the following:

(1) At least the following numbers of courses in the subjects specified, each course having a duration of one year.

(A) Three courses in English.

(B) Two courses in mathematics.

(C) Two courses in science, including biological and physical sciences.

(D) Three courses in social studies, including United States history and geography; world history, culture, and geography; and American government, civics, and economics.

(E) One course in visual or performing arts or foreign language.

(F) Two courses in physical education, unless the pupil has been exempted pursuant to the provisions of this code.

(2) Such other coursework as the governing board of the school district may by rule specify.

(b) The governing board, with the active involvement of parents, administrators, teachers, and pupils, shall adopt alternative means for students to complete the prescribed course of study which may include practical demonstration of skills and competencies, supervised work experience or other outside school experience, interdisciplinary study, independent study, and credit earned at a postsecondary institution. Requirements for graduation and specified alternative modes for completing the prescribed course of study shall be made available to pupils, parents, and the public.

SEC. 2. It is the intent of the Legislature that legislation be enacted to provide that commencing with the 1987–88 school year, completion of one course in a foreign language and one course in visual or performing arts be a requirement for high school

graduation. In conjunction with this legislative intent, the State Department of Education shall submit two reports, on or before January 1, 1986, to the Legislature as follows:

(a) One report shall include the department's recommendations as to the imposition of one course in foreign language as a requirement of high school graduation.

(b) One report shall include the department's recommendations as to the imposition of one course in visual or performing arts as a requirement of high school graduation.

(c) Both reports shall include, but need not be limited to, information as to the types of courses currently offered, educational benefits associated with these courses, availability of teachers for these subject areas, and specific problems facing school districts in the imposition of these course requirements.

SEC. 3. The sum of fifty thousand dollars ($50,000) is hereby appropriated from the General Fund to the State Department of Education for the 1984–85 fiscal year, as follows:

(a) The sum of twenty-five thousand dollars ($25,000) for purposes of preparing the report required under Section 2 regarding imposition of one course in foreign language as a requirement of high school graduation.

(b) The sum of twenty-five thousand dollars ($25,000) for purposes of preparing the report required under Section 2 regarding imposition of one course in visual or performing arts as a requirement of high school graduation.

CHAPTER 1754

An act to amend Sections 12940, 12970, 19572, 19682, and 19702 of the Government Code, relating to fair employment practices.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1984.]

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

SECTION 1. The Legislature finds and declares that it is the existing policy of the State of California to prohibit harassment and discrimination in employment on the basis of any protected classification. Such conduct whether intentional or unintentional is a violation of the civil rights of California citizenry and has been shown to decrease productivity in the workforce. It is the existing policy of the State of California, as declared by the Legislature, that procedures be established by which allegations of prohibited harassment and discrimination may be filed, timely and efficiently investigated, and fairly adjudicated, and that agencies and employers be required to establish affirmative programs which include prompt and remedial internal procedures and monitoring so that worksites

will be maintained free from prohibited harassment and discrimination by their agents, administrators, and supervisors as well as by their nonsupervisors and clientele. To further this intent, the Legislature enacts this act.

SEC. 2. Section 12940 of the Government Code is amended to read:

12940. It shall be an unlawful employment practice, unless based upon a bona fide occupational qualification, or, except where based upon applicable security regulations established by the United States or the State of California:

(a) For an employer, because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of any person, to refuse to hire or employ the person or to refuse to select the person for a training program leading to employment, or to bar or to discharge such person from employment or from a training program leading to employment, or to discriminate against such person in compensation or in terms, conditions or privileges of employment.

(1) Nothing in this part shall prohibit an employer from refusing to hire or discharging a physically handicapped employee, or subject an employer to any legal liability resulting from the refusal to employ or the discharge of a physically handicapped employee, where the employee, because of his or her physical handicap, is unable to perform his or her duties, or cannot perform such duties in a manner which would not endanger his or her health or safety or the health and safety of others.

(2) Nothing in this part shall prohibit an employer from refusing to hire or discharging an employee who, because of the employee's medical condition, is unable to perform his or her duties, or cannot perform such duties in a manner which would not endanger the employee's health or safety or the health or safety of others. Nothing in this part shall subject an employer to any legal liability resulting from the refusal to employ or the discharge of an employee who, because of the employee's medical condition, is unable to perform his or her duties, or cannot perform such duties in a manner which would not endanger the employee's health or safety or the health or safety of others.

(3) Nothing in this part relating to discrimination on account of marital status shall either (i) affect the right of an employer to reasonably regulate, for reasons of supervision, safety, security, or morale, the working of spouses in the same department, division, or facility, consistent with the rules and regulations adopted by the commission, or (ii) prohibit bona fide health plans from providing additional or greater benefits to employees with dependents than to those employees without or with fewer dependents.

(4) Nothing in this part relating to discrimination on account of sex shall affect the right of an employer to use veteran status as a factor in employee selection or to give special consideration to Vietnam Era veterans.

(b) For a labor organization, because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of any person, to exclude, expel or restrict from its membership such person, or to provide only second-class or segregated membership or to discriminate against any person because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of such person in the election of officers of the labor organization or in the selection of the labor organization's staff or to discriminate in any way against any of its members or against any employer or against any person employed by an employer.

(c) For any person to discriminate against any person in the selection or training of that person in any apprenticeship training program or any other training program leading to employment because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of the person discriminated against.

(d) For any employer or employment agency, unless specifically acting in accordance with federal equal employment opportunity guidelines and regulations approved by the commission, to print or circulate or cause to be printed or circulated any publication, or to make any non-job-related inquiry, either verbal or through use of an application form, which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex, or any intent to make any such limitation, specification or discrimination. Nothing in this subdivision shall prohibit any employer from making, in connection with prospective employment, an inquiry as to, or a request for information regarding, the physical fitness, medical condition, physical condition or medical history of applicants if that inquiry or request for information is directly related and pertinent to the position the applicant is applying for or directly related to a determination of whether the applicant would endanger his or her health or safety or the health or safety of others.

(e) For any employer, labor organization or employment agency to harass, discharge, expel or otherwise discriminate against any person because the person has made a report pursuant to Section 11161.8 of the Penal Code.

(f) For any employer, labor organization or employment agency to discharge, expel, or otherwise discriminate against any person because the person has opposed any practices forbidden under this part or because the person has filed a complaint, testified or assisted in any proceeding under this part.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under this part, or to attempt to do so.

(h) For the governing board of a school district to violate Section 44066 or 87402 of the Education Code.

(i) For an employer, labor organization, employment agency,

apprenticeship training program or any training program leading to employment, or any other person, because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age, to harass an employee or applicant. Harassment of an employee or applicant by an employee other than an agent or supervisor shall be unlawful if the entity, or its agents or supervisors, knows or should have known of this conduct and fails to take immediate and appropriate corrective action. An entity shall take all reasonable steps to prevent harassment from occurring. Loss of tangible job benefits shall not be necessary in order to establish harassment. The provisons of this subdivision are declaratory of existing law, except for the new duties imposed on employers with regard to harassment. For purposes of this subdivision only, "employer" means any person regularly employing one or more persons, or any person acting as an agent of an employer, directly or indirectly, the state, or any political or civil subdivision thereof, and cities. However, "employer" does not include a religious association or corporation not organized for private profit. For other types of discrimination as enumerated in subdivision (a), an employer remains as defined in subdivision (c) of Section 12926. Nothing contained in this subdivision shall be construed to apply the definition of employer found in this subdivision to subdivision (a).

(j) For an employer, labor organization, employment agency, apprenticeship training program, or any training program leading to employment, to fail to take all reasonable steps necessary to prevent discrimination and harassment from occurring.

SEC. 3. Section 12970 of the Government Code is amended to read:

12970. (a) If the commission finds that a respondent has engaged in any unlawful practice under this part, it shall state its findings of fact and determination and shall issue and cause to be served on the parties an order requiring such respondent to cease and desist from such unlawful practice and to take such action, including, but not limited to, hiring, reinstatement or upgrading of employees, with or without back pay, and restoration to membership in any respondent labor organization, as, in the judgment of the commission, will effectuate the purposes of this part, and including a requirement for report of the manner of compliance.

(b) If the commission finds the respondent has engaged in an unlawful practice under this part, and the respondent is licensed or granted a privilege by an agency of the state to do business, provide a service, or conduct activities, and the unlawful practice is determined to have occurred in connection with the exercise of that license or privilege, the commission shall provide the licensing or privilege granting agency with a copy of its decision or order.

(c) If the commission finds that a respondent has not engaged in any such unlawful practice, the commission shall state its findings of fact and determination and shall issue and cause to be served on the parties an order dismissing such accusation as to such respondent.

(d) Any findings and determination made or any order issued pursuant to this section shall be written and shall indicate the identity of the members of the commission who participated herein.

(e) Any order issued by the commission shall have printed on its face references to the rights of appeal of any party to the proceeding to whose position the order is adverse.

(f) If the commission finds that a respondent has engaged in an unlawful practice under this part, and it appears that this practice consisted of acts described in Section 243.4, 261, 286, 288, 288a, or 289 of the Penal Code, the commission, with the consent of the complainant, shall provide the local district attorney's office with a copy of its decision and order.

SEC. 4. Section 19572 of the Government Code is amended to read:

19572. Each of the following constitutes cause for discipline of an employee, or person whose name appears on any employment list:

(a) Fraud in securing appointment.

(b) Incompetency.

(c) Inefficiency.

(d) Inexcusable neglect of duty.

(e) Insubordination.

(f) Dishonesty.

(g) Drunkenness on duty.

(h) Intemperance.

(i) Addiction to the use of controlled substances.

(j) Inexcusable absence without leave.

(k) Conviction of a felony or conviction of a misdemeanor involving moral turpitude. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction within the meaning of this section.

(*l*) Immorality.

(m) Discourteous treatment of the public or other employees.

(n) Improper political activity.

(o) Willful disobedience.

(p) Misuse of state property.

(q) Violation of this part or board rule.

(r) Violation of the prohibitions set forth in accordance with Section 19990.

(s) Refusal to take and subscribe any oath or affirmation which is required by law in connection with the employment.

(t) Other failure of good behavior either during or outside of duty hours which is of such a nature that it causes discredit to the appointing authority or the person's employment.

(u) Any negligence, recklessness, or intentional act which results in the death of a patient of a state hospital serving the mentally disabled or the developmentally disabled.

(v) The use during duty hours, for training or target practice, of any material which is not authorized therefor by the appointing

power.

(w) Unlawful discrimination, including harassment, on the basis of race, religious creed, color, national origin, ancestry, physical handicap, marital status, sex, or age, against the public or other employees while acting in the capacity of a state employee.

(x) Unlawful retaliation against any other state officer or employee or member of the public who in good faith reports, discloses, divulges, or otherwise brings to the attention of, the Attorney General, or any other appropriate authority, any facts or information relative to actual or suspected violation of any law of this state or the United States occurring on the job or directly related thereto.

SEC. 5. Section 19682 of the Government Code is amended to read:

19682. Every person who violates any provision of this chapter is guilty of a misdemeanor. Adverse action may be taken by the appointing power, or the executive officer of the board may file charges, against a state employee who violates any provisions of this chapter.

SEC. 6. Section 19702 of the Government Code is amended to read:

19702. (a) A person shall not be discriminated against under this part because of sex, race, religious creed, color, national origin, ancestry, marital status, or physical handicap unless it can be shown that the particular handicap is job related. For purposes of this article, "discrimination" includes harassment. This subdivision is declaratory of existing law.

(b) As used in this section, "physical handicap" includes, but is not limited to, impairment of sight, hearing, or speech, or impairment of physical ability because of amputation or loss of function or coordination, or any other health impairment which requires special education or related services.

(c) As used in this section, "physical handicap" shall not include obesity or any other health impairment caused by such person's obesity.

(d) If the board finds that a person has engaged in discrimination under this part, and it appears that this practice consisted of acts described in Section 243.4, 261, 286, 288, 288a, or 289 of the Penal Code, the board, with the consent of the complainant, shall provide the local district attorney's office with a copy of its decision and order.

(e) If the board finds that discrimination has occurred in violation of this part, the board shall issue and cause to be served on the appointing authority an order requiring the appointing authority to cause the discrimination to cease and desist and to take such action, including, but not limited to, hiring, reinstatement or upgrading of employees, with or without back pay, and compensatory damages, which, in the judgment of the board, will effectuate the purposes of this part. Consistent with this authority, the board may establish rules

governing the award of compensatory damages. The order shall include a requirement of reporting the manner of compliance.

CHAPTER 1755

An act to add and repeal Chapter 7 (commencing with Section 10800) of Part 2 of Division 2 of Title 2 of the Government Code, relating to public retirement, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1984.]

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

SECTION 1. Chapter 7 (commencing with Section 10800) is added to Part 2 of Division 2 of Title 2 of the Government Code, to read:

CHAPTER 7. CUSTODIAN SERVICES FOR PUBLIC RETIREMENT SYSTEMS

10800. The Legislature hereby finds and declares:

(a) That the Public Employees' Retirement System and the State Teachers' Retirement System are among the largest pension systems in the country, public or private.

(b) That the services provided by the custodian of these funds must be state-of-the-art in order to maximize the investment potential of the funds and minimize inefficiencies.

(c) That the current services provided by the custodian of the funds warrants extensive review and evaluation in order to assess their efficiencies and inefficiencies.

10801. (a) A contractor selected pursuant to subdivision (b), with the assistance of the staffs of the Public Employees' Retirement System, the State Teachers' Retirement System, the Treasurer, the Controller, the Department of Finance, and the State and Consumer Services Agency, is hereby directed to prepare a report which evaluates the custodial services provided to the Public Employees' Retirement System and the State Teachers' Retirement System, methods to improve those services, and master custodian services offered by major banks and trust companies. The report shall be submitted to the Joint Committee on Public Pension Fund Investments no later than January 1, 1985, for the purposes of providing background material and serving as a discussion piece for a legislative hearing on the issue of the custody of the state's pension funds. More specifically, the report shall:

(1) Evaluate the current roles of the Public Employees' Retirement System, the State Teachers' Retirement System, the

Controller and the Treasurer in providing custodian services.

(2) Analyze master custodian services offered by other financial institutions.

(3) Evaluate the custodial experiences of large public pension systems in other states and locales.

(4) Quantify potential dollar savings to be gained by modifying the present system or using an outside bank or trust company as a master custodian.

(b) Selection of the contractor shall rest jointly with the Public Employees' Retirement System, the Treasurer and the Joint Committee on Public Pension Fund Investments. Approval of the final selection shall be made by the Joint Committee on Public Pension Fund Investments.

10802. This chapter shall remain in effect only until January 1, 1986, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends such date.

SEC. 2. There is hereby appropriated for expenditure for the purposes of Chapter 7 (commencing with Section 10800) of Part 2 of Division 2 of Title 2 of the Government Code:

(a) From the Public Employees' Retirement Fund, the sum of forty-two thousand two hundred fifty dollars ($42,250) to the Board of Administration of the Public Employees' Retirement System.

(b) From the General Fund, the sum of forty-two thousand two hundred fifty dollars ($42,250) to the Treasurer.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the efficiencies and inefficiencies of both the current services provided by the custodian of, and the master custodian services currently offered by major banks and trust companies for, the funds of the Public Employees' Retirement System and the State Teachers' Retirement System may be evaluated at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1756

An act to add Section 21292.51 to the Government Code, relating to public retirement.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1984.]

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

SECTION 1. Section 21292.51 is added to the Government Code, to read:

21292.51. Notwithstanding any provision of this part, a state safety member employed by the Department of Corrections or the Department of the Youth Authority with 25 years or more of service credit as such, shall, upon retirement on or after January 1, 1982, for industrial disability, receive the disability allowance provided for in Section 21292.5 or a disability allowance equal to 1/50th of final compensation multiplied by the number of years of state safety member service in the Department of Corrections or the Department of the Youth Authority with which the member is credited at retirement.

This section shall not become operative for any eligible member, unless and until it is first agreed to in a memorandum of understanding reached between the state and the exclusive representatives of the employees in State Bargaining Unit No. 6 pursuant to the State Employer-Employee Relations Act, Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1, and approved by the Legislature pursuant to law.

SEC. 2. The Legislature hereby finds and declares that:

(a) Serious and unintended inequities began to arise in 1981, whenever a state safety member employed at an early age by the Department of Corrections or the Department of the Youth Authority would incur an industrial disability which would require retirement, after earning state safety service credit in excess of 25 years but before attaining the minimum age for service retirement.

(b) Prior attempts to remedy such inequities have been deferred or neglected.

(c) This act would remedy those inequities and, in so doing, would achieve a public purpose within the meaning of Section 6 of Article XVI of the California Constitution.

CHAPTER 1757

An act to amend the heading of Article 5 (commencing with Section 9105) of Chapter 1 of Part 1 of Division 2 of Title 2 of, to amend Sections 9105, 9106, 9108, 9109, and 9110 of, to add Article 9 (commencing with Section 9149) to Chapter 1 of Part 1 of Division 2 of Title 2 of, and to repeal Section 9112 of, the Government Code, relating to the State Capitol area, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1984.]

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

SECTION 1. The heading of Article 5 (commencing with Section 9105) of Chapter 1 of Part 1 of Division 2 of Title 2 of the Government Code is amended to read:

Article 5. The State Capitol Building Annex

SEC. 2. Section 9105 of the Government Code is amended to read:

9105. The State Capitol Building Annex is the annex to the historic State Capitol, constructed to the east of the original building, situated in the area bounded by 10th, L, 15th and N Streets in the City of Sacramento.

SEC. 3. Section 9106 of the Government Code is amended to read:

9106. The State Capitol Building Annex is intended primarily for the use of the legislative department and, except as otherwise provided in this article, shall be devoted exclusively to such use.

SEC. 4. Section 9108 of the Government Code is amended to read:

9108. The first floor of the State Capitol Building Annex is excepted from the provisions of this article. Such excepted space shall continue under the control of the Department of General Services. All other space in the State Capitol Building Annex shall be allocated from time to time by the Joint Rules Committee in accordance with its determination of the needs of the Legislature and the two houses thereof. The committee shall allocate such space as it determines to be necessary for facilities and agencies dealing with the Legislature as a whole including, but not limited to, press quarters, billrooms, telephone rooms, and offices for the Legislative Counsel and for committees created by the two houses jointly. The committee shall allocate to the Senate and Assembly, respectively, the space it determines to be needed by those houses and their committees and the officers, employees, and attachés thereof. The space thus allocated to the Senate and to the Assembly shall be allotted from time to time by the Senate Rules Committee and the Assembly Rules Committee, respectively.

SEC. 5. Section 9109 of the Government Code is amended to read:

9109. The determination of the Joint Rules Committee as to the needs of the Legislature shall be subject to change only by action of the committee or by concurrent resolution. If, at any time, the committee determines that there is space in the State Capitol Building Annex in excess of the needs of the legislative branch of the state government, it may release that space for use by the executive branch of the state government until such time as the space is needed by the legislative branch. The release shall be effected by notifying the Director of General Services that certain described

space is not necessary for the use by the Legislature for the time being. Thereafter, the Department of General Services, until such time as the Director of General Services is notified that the space has become needed by the legislative branch, shall have the same jurisdiction over the excess space as if this article had not been enacted.

SEC. 6. Section 9110 of the Government Code is amended to read:

9110. The maintenance and operation of all of the State Capitol Building Annex shall continue under the control of the Department of General Services, subject to the provisions of this article.

SEC. 7. Section 9112 of the Government Code is repealed.

SEC. 8. Article 9 (commencing with Section 9149) is added to Chapter 1 of Part 1 of Division 2 of Title 2 of the Government Code, to read:

Article 9. The Historic State Capitol Commission

9149. The Legislature finds and declares that the historic State Capitol is a state historic and architectural legacy which must be preserved and maintained in a manner befitting the significance of the structures to the history and people of California. It is the intention of the Legislature, in enacting this article, to provide a permanent, official body to be charged with advisory review of the maintenance, restoration, development, and management of the historic State Capitol.

9149.1. As used in this article:

(a) "Commission" means the Historic State Capitol Commission created by Section 9149.2.

(b) "Historic State Capitol" is the building housing the state legislative offices and chambers, situated in the area bounded by 10th, L, 15th and N Streets in the City of Sacramento, except the east annex thereto.

9149.2. (a) There is in state government, the Historic State Capitol Commission, which shall consist of seven members, initially appointed as follows:

(1) Two members appointed by the Speaker of the Assembly, with one member initially serving a term of four years and one member initially serving a term of six years; thereafter, any appointment under this paragraph shall be for a term of six years.

(2) Two members appointed by the President pro Tempore of the Senate, with one member initially serving a term of two years and one member initially serving a term of six years; thereafter, any appointment under this paragraph shall be for a term of six years.

(3) The State Historic Preservation Officer, the State Librarian, and the State Archivist, who shall serve ex officio.

(b) Each member shall serve until his or her successor is appointed and qualified. Vacancies shall be filled by the appointing power for the remainder of the term. The commission shall from

time to time elect one of its members to chair the commission.

9149.3. The appointees of both the Speaker of the Assembly and the President pro Tempore of the Senate shall include one person who represents the arts or humanities and one person from the general public.

9149.4. The members of the commission shall serve without compensation, but shall receive reimbursement for travel and living expenses in connection with their official duties, at rates established by the Department of Personnel Administration.

9149.5. The Joint Rules Committee shall appoint a Subcommittee on the Capitol Restoration Project, comprised of three members from the Senate and three from the Assembly, to monitor the commission. The legislators so appointed shall have no vote in commission proceedings.

9149.6. (a) Four members of the commission shall constitute a quorum to do business, and no action of the commission may be taken except upon an affirmative recorded vote of four or more members.

(b) All meetings of the commission shall be open to the public.

(c) The commission shall meet upon call of the chairperson and at such other times as it may prescribe.

9149.7. The commission shall have the following powers and duties:

(a) To prepare, complete, and, from time to time, to amend, a comprehensive master plan, based on a priority of needs, for the restoration, preservation, and maintenance of the historic State Capitol.

(b) To review and advise the Legislature on any development, improvement, or other physical change in any aspect of the historic State Capitol.

(c) To manage, with the approval of the Joint Rules Committee, all historic and museum spaces and any concessions, in the historic State Capitol.

(d) To develop and manage historic art loans or other programs, exhibits, films, convocations, or other activities of an historic, architectural, or cultural nature, including any museum space in the historic State Capitol, as the commission determines will serve the interests of the public and promote public interest in the historic State Capitol under Joint Rules Committee supervision.

(e) To purchase for the state, or to accept as gifts to the state, any furnishings, artifacts, works of art, or other property which the commission determines will enhance the historic and cultural aspects of the historic State Capitol. All furnishings, artifacts, works of art, or other property so acquired shall be managed by the commission under supervision of the Joint Rules Committee.

(f) To accept financial contributions from any source, public or private, including any advisory foundation or group.

(g) To do any other act which the commission determines will maintain or enhance the historic and cultural legacy of the historic

State Capitol.

9149.8. In carrying out its duties and responsibilities under this article, the commission shall follow accepted standards for restoration, preservation, and maintenance of historic structures, including all of the following, where applicable and feasible:

(a) Standards for historic preservation, maintenance, recordation, and documentation of landmarks, promulgated by the United States Department of the Interior or its successor.

(b) Guidelines and museum management procedures, established by the National Trust for Historic Preservation or its successor.

(c) Standards, procedures, and guidelines for maintenance and protection of historic properties established or administered by the State Historic Preservation Officer and the Office of Historic Preservation.

(d) The management, conservation, and accession policies and procedures for historic features and artifacts developed for the Capitol Museum project interpretive program of the Joint Rules Committee in connection with the State Capitol Restoration Project conducted under Section 9124.

(e) Recommended procedures of the American Association of Museums.

9149.9. The commission shall maintain and may utilize all historic data, research, and project files developed and gathered by the state, and in the possession of the state, in connection with the State Capitol Restoration Project. On the date that the commission commences business, all of the written materials covered under this section shall be transferred to the State Archives to inventory, process, and store on behalf of the commission.

9149.10. The commission may request and shall receive assistance and data, relevant to the commission's duties and responsibilities, from every agency of state government.

9149.11. The commission shall maintain complete records of its proceedings and may publish reports and other publications in connection with its duties and responsibilities.

9149.12. The commission shall use any funds appropriated to its use, or allocated to its use by the Joint Rules Committee, donated to it, or acquired as revenue from any concession operated in the State Capitol, only for purposes of furthering the objectives of this article.

9149.13. The commission shall review and advise on any interagency agreement for management of concessions within the historic State Capitol.

9149.14. The commission shall employ an executive officer, who shall have at least three years of administrative-curatorial experience in the cultural or historic preservation fields, and staff persons as may be necessary to provide administrative services to the commission. No person may be employed as executive officer without approval, by majority vote, of the members of the Joint Rules Committee.

9149.15. The commission may contract with any agency, public or

private, for services, in connection with the commission's duties and responsibilities, as the commission determines to be necessary, including, but not limited to, the Department of Parks and Recreation in connection with the management of the Capitol Museum, as approved by the Joint Rules Committee. These contracts shall be subject to and consistent with existing laws, rules, and state policy regarding contracts with private firms or individuals for services provided to the state.

9149.16. The commission annually shall report to the Legislature on its activities. The commission shall propose to the Legislature such recommendations for legislation in connection with the historic State Capitol as the commission determines to be necessary.

9149.17. The commission shall be supported by allocations by the Joint Rules Committee from the Contingent Funds of the Assembly and Senate. The commission annually shall submit to the Joint Rules Committee a proposed budget for each fiscal year. The budget shall be subject to approval by a majority vote of the Joint Rules Committee.

SEC. 9. Of any funds appropriated by Chapter 246 of the Statutes of 1975, Chapter 28 of the Statutes of 1979, and Chapter 214 of the Statutes of 1980 to the Contingent Funds of the Assembly and Senate for purposes of restoration or rehabilitation of the State Capitol as provided in Section 9124 of the Government Code, which are not expended upon completion of the project of restoration or rehabilitation by the prime contractor and the return of the custody of the building to the state, one-half is reappropriated to the Assembly Contingent Fund and one-half is reappropriated to the Senate Contingent Fund.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the Historic State Capitol Commission commence its work as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1758

An act to amend Sections 68200, 68201, and 68202 of the Government Code, relating to salaries, and making an appropriation therefor.

[Approved by Governor September 15, 1984. Filed with Secretary of State October 1, 1984.]

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

SECTION 1. Section 68200 of the Government Code is amended to read:

68200. The annual salary of the Chief Justice of California is ninety three thousand one hundred forty dollars ($93,140).

SEC. 2. Section 68201 of the Government Code is amended to read:

68201. Effective January 1, 1985, the annual salary of each of the following judges is the amount indicated opposite the name of the office:

(a) Associate Justice of the Supreme Court, eighty-eight thousand eight hundred eighteen dollars ($88,818).

(b) Presiding justice or associate justice of a court of appeal division, eighty-three thousand two hundred sixty eight dollars ($83,268).

SEC. 3. Section 68202 of the Government Code is amended to read:

68202. Effective January 1, 1985, the annual salary of each of the following judges is the amount indicated opposite the name of the office:

(a) Judge of the superior court, seventy-two thousand seven hundred sixty-three dollars ($72,763).

(b) Judge of a municipal court, sixty-six thousand four hundred forty-nine dollars ($66,449).

SEC. 4. The amendments to Sections 68200 and 68201 of the Government Code made by this act shall not apply to any justice who is serving in a protected term pursuant to Olson v. Cory, 27 Cal. 3d 532, and Olson v. Cory, 134 Cal. App. 3d 85, on the effective date of this act, unless such justice files a waiver with the Controller, in a form prescribed by the Controller, waiving entitlement to any future salary increase based on Section 68203 of the Government Code as that section read prior to amendment by Chapter 1018 of the Statutes of 1979.

SEC. 5. The sum of twenty-two thousand dollars ($22,000) is hereby appropriated from the General Fund to the Controller for allocation and disbursement to the Supreme Court and the courts of appeal in augmentation of Item 0250-001-001 of the Budget Act of 1984.

CHAPTER 1759

An act to amend Section 19878 of, to add Sections 9356.21 and 19140 to, and to add and repeal Article 5 (commencing with Section 18990) of Chapter 5 of Part 2 of Division 5 of Title 2 of, the Government Code, relating to public employees, making an appropriation therefor, and declaring the urgency thereof, to take effect

immediately.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1984.]

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

SECTION 1. Section 9356.21 is added to the Government Code, to read:

9356.21. Each member or former member who retired on or after December 31, 1981, who has 10 years of credited service in this system on or before December 31, 1984, shall receive credit for continuous active service of not less than one year in the armed forces of the United States, or continuous active service of not less than one year in the Merchant Marine of the United States prior to January 1, 1950, which service was rendered prior to assuming for the first time a state office for which membership in the system was elective and terminated with a discharge under other than dishonorable conditions; provided, however, that the credit to be given for that service shall be on the basis of one year of credit for each five years of credited service in this system, but shall not exceed a total of four years regardless of the number of years of either that service or subsequent service in this system. However, any member or retired former member electing to receive a credit for such military service shall contribute in lump sum or by installments over such period and subject to such minimum payments as may be prescribed by regulations of the board, at the member's contribution rate at the time of election or the retired persons's contribution rate at retirement applied, respectively, to the average annual compensation of the member over the three years immediately preceding the election or the average annual compensation of the retired person over the three years immediately preceding retirement.

Military service credit shall not be granted for any military service to which any of the following apply:

(a) In any period for which credit is otherwise given under Section 9356.2.

(b) Which is not continuous.

(c) For which service credit was received under any other retirement system.

(d) To the extent that total credit under this section would exceed four years.

An election by a member with respect to military service under this section may be made only while the member is in service in this system and an election by a member or retired former member shall be made before January 1, 1986.

Any resulting increase in the allowance of a retired former member shall be applied prospectively only.

SEC. 2. Article 5 (commencing with Section 18990) is added to

Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code, to read:

Article 5. Legislative Employees

18990. Notwithstanding any other provisions of law, persons who on June 5, 1984, are employed by the California Legislature with not less than 12 months of service as of the effective date of this article, in a position exempt from the state civil service pursuant to subdivision (a) of Section 4 of Article VII of the California Constitution, shall be eligible to apply for promotional civil service examinations for which they meet the minimum qualifications prescribed by the class specification. In evaluating whether minimum qualifications are met, related legislative employment experience shall be considered state civil service experience in a class deemed comparable by the board, based on the duties and responsibilities assigned. The board shall determine whether new or deferred open, open nonpromotional, or promotional examinations shall be administered. Where multiple new departmental promotional examinations are being administered for the same classification with the same final filing date, a person applying for those examinations shall choose one departmental examination in which to compete. A person receiving a passing score shall have his or her name placed on all departmental promotional eligible lists resulting from examinations for that class with the same final filing date. Persons receiving passing scores in deferred examinations shall have their names merged with those on any existing eligible lists for the class for which the examination was held.

This article is added as a result of legislative reductions mandated pursuant to the passage of Proposition No. 24 on June 5, 1984. This article shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute which is chaptered before January 1, 1986, deletes or extends that date.

SEC. 3. Section 19140 is added to the Government Code, to read:

19140. In addition to reinstatement required under any other section, an appointing power may, in his or her discretion, reinstate any person having probationary or permanent status who was separated from his or her position (a) by resignation, (b) by service retirement, (c) by termination from limited-term, temporary, career executive assignment, or exempt appointment, (d) under Section 19996.2, or (e) without a break in continuity of state service to accept another civil service or exempt appointment. Reinstatement shall be undertaken subject to all of the following:

(a) Subject to board rule.

(b) Within three years if the employee, at the time of separation was a member of the California Highway Patrol.

For reinstatement after separation, for members of the California Highway Patrol, the time spent (1) in a position which is exempt from civil service or (2) as a temporary employee in another

governmental agency engaged in a technical cooperation program under an agreement approved by the state or (3) in a recognized military service, shall not be considered in computing the three-year period.

(c) Subject to certification regarding eligibility pursuant to Section 20983.5, if applicable.

(d) To any vacant position as follows:

(1) In the class vacated or from which separated, or,

(2) In a lower class in the same series, or,

(3) In a lower class in a related series requiring similar types of qualifications, knowledge, and abilities, or,

(4) In another class having substantially similar duties, responsibilities, and qualifications, and substantially the same salary range.

An employee separated from state service by layoff, or by resignation in lieu of layoff, may be reinstated at the discretion of the appointing power; provided, however, that the reinstatement shall be subject to the requirements of this section and shall not be to a position that is specifically subject to the employee's reemployment list eligibility.

SEC. 4. Section 19878 of the Government Code is amended to read:

19878. As used in this article:

(a) "Employee" means any of the following:

(1) A permanent or probationary full-time state officer or employee, regardless of period of service, who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System in compensated employment on and after October 1, 1976. Commencing January 1, 1979, it also means a full-time state officer or employee, whether or not a member of such systems, who is an employee of the Legislature and is not a member of the civil service.

(2) A permanent or probationary part-time or intermittent state officer or employee, with at least the equivalent of six monthly compensated pay periods of service in the 18 months of pay periods immediately preceding the pay period in which the disability begins, who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System, in compensated employment on or after January 1, 1979 or a part-time or intermittent employee of the Legislature, whether or not a member of the Public Employees' Retirement System, in compensated employment on or after January 1, 1984.

(3) In addition to those eligible under subdivision (1) of this section, an employee of the Trustees of the California State University and Colleges appointed half-time or more for one year of service or one academic year, as defined by the trustees, or more, who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System, in compensated employment on or after January 1, 1979.

(b) "Full pay" means the gross base salary earnable by the employee, and subject to retirement contribution on the date of the commencement of his or her disability.

(c) "Disability" or "disabled" includes mental or physical illness and mental or physical injury, including any illness or injury resulting from pregnancy, childbirth, or related medical condition. An employee is deemed disabled on any day in which, because of his or her physical, mental, or medical condition, he or she is unable to perform his or her regular or customary work.

(d) "Disability benefit period", with respect to any individual, means the continuous period of disability beginning with the first day with respect to which the individual files a valid claim for nonindustrial disability benefits. For the purposes of this article, two consecutive periods of disability due to the same or related cause or condition and separated by a period of not more than 14 days shall be considered as one disability benefit period.

(e) "Appeals board" means the California Unemployment Insurance Appeals Board.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 5. The sum of eighty thousand dollars ($80,000) is hereby appropriated to, and in augmentation of, Item 8320-001-001 of the Budget Act of 1984, Chapter 258 of the Statutes of 1984, for support of the Public Employment Relations Board for the purpose of funding the mandates of Section 15 of Chapter 1258 of the Statutes of 1983 and subdivision (b) of Section 227 of Chapter 498 of the Statutes of 1983.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that Proposition No. 24 of the June 5, 1984, Primary Election and the employee benefits conferred by this act may be implemented by the Legislature at the earliest possible time and in an orderly manner, it is necessary that this act take effect immediately.

CHAPTER 1760

An act to amend Sections 18116 and 18119 of, to add Section 18116.1 to, and to repeal Section 18083 of, the Health and Safety Code, and to amend Sections 5801, 5812, and 5841 of, to repeal and add Section 10760 of, and to repeal Section 10759.5 of, the Revenue and Taxation Code, relating to the taxation of mobilehomes, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1984.]

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

SECTION 1. Section 18083 of the Health and Safety Code is repealed.

SEC. 2. Section 18116 of the Health and Safety Code is amended to read:

18116. (a) The license fee is due and payable to the department each year on or before the expiration date assigned by the department and noted on the registration card. The fee shall be paid to the department at the time of renewal of registration.

(b) An amount of 20 percent of the license fee shall be added on any application for renewal of registration made later than midnight of the date of expiration. The additional amount shall not be imposed on any application or fee payment received by mail after the date of expiration if the application or payment was, by evidence of postmark, placed in the mail before midnight on the date of expiration. Any manufactured home or mobilehome subject to this article for which registration has been allowed to lapse for 120 days or more shall be subject to a penalty of fifty dollars ($50) for each transportable unit to be paid to the department with all delinquent fees due at the time of the renewal of the registration.

(c) Any commercial coach subject to this article for which registration has been allowed to lapse for 120 days or more shall be subject to a penalty of two hundred dollars ($200) to be paid to the department along with all delinquent fees due at the time of the renewal of registration.

(d) It is the intent of the Legislature that license fees levied on manufactured homes, mobilehomes, or commercial coaches subject to this part shall not be altered or increased from the rates and levels of license fees established prior to January 1, 1981.

SEC. 3. Section 18116.1 is added to the Health and Safety Code, to read:

18116.1. (a) Nonpayment of the fees and penalties provided for in Sections 18114 and 18115 and in subdivisions (a), (b), and (c) of Section 18116 for manufactured homes, mobilehomes, or commerical coaches shall constitute a lien in favor of the State of California in the amount owing.

(b) Notwithstanding any other provision of law, the lien provided for in subdivision (a) shall continue to accrue for all registration years in which the fees and penalties remain unpaid.

(c) Until the amount of a lien provided for in subdivision (a) or (b) is paid to the department, the department shall not do either of the following:

(1) Amend the permanent title record of the manufactured home or mobilehome which is the subject of the lien for the purpose of transferring any ownership interest or transferring or creating any security interest in the manufactured home or mobilehome.

(2) Issue any duplicate, substitute, or new certificate of title, registration card, or copy of a registration card with respect to the manufactured home or mobilehome which is the subject of the lien.

SEC. 4. Section 18119 of the Health and Safety Code is amended to read:

18119. (a) If the license fee has not been paid on or before the 60th day following the date on which the fee became delinquent, the department shall mail a notice to the registered owner, legal owner and each junior lienholder shown on the permanent title record as of that date, containing the following information:

(1) That the license fee is delinquent.

(2) That the manufactured home or mobilehome will become subject to a penalty of fifty dollars ($50) per transportable unit pursuant to subdivision (b) of Section 18116, if the fees and penalties are not paid on or before the 120th day after the date of delinquency.

(b) On or before the last day of each calendar month, the department shall furnish a listing of new registrations and transfers of title to manufactured homes and mobilehomes subject to local property taxation under Section 5801 of the Revenue and Taxation Code, and of all voluntary transfers to local property taxation, as provided in subdivision (c), to the county assessor of the county in which the manufactured home or mobilehome is sited.

(c) The department shall transfer a manufactured home or mobilehome which is subject to vehicle license fee to local property taxation upon a request for the transfer, as prescribed by the department, executed by the registered owner, legal owner, and each junior lienholder. Transfer pursuant to this subdivision shall be final. Persons obtaining such a transfer thereby waive all entitlement to petition for reinstatement to the vehicle license fee, and are not entitled to the refund of any vehicle registration fees or vehicle license fees paid which apply to the period between the date of voluntary transfer and the expiration of the registration period for which the fees were paid.

SEC. 5. Section 5801 of the Revenue and Taxation Code is amended to read:

5801. (a) As used in this part, "mobilehome" means a mobilehome as defined in Sections 18008 and 18211 of the Health and Safety Code which:

(1) Was first sold new on or after July 1, 1980.

(2) Was, at the request of the owner, and following his or her notification of the Department of Housing and Community Development and the assessor, made subject to taxation under this part.

(b) "Mobilehome" as used in this part does not include a mobilehome which has become real property by being affixed to land on a permanent foundation system or otherwise and is taxed as all other real property is taxed.

SEC. 6. Section 5812 of the Revenue and Taxation Code is amended to read:

5812. The base year value of a mobilehome which is purchased or which changed ownership shall be entered on the roll for the lien date next succeeding the date of the purchase or change in ownership. The value of any new construction shall be entered on the roll for the lien date next succeeding the date of completion of the new construction. The value of new construction in progress on the lien date shall be entered on the roll as of the lien date.

SEC. 7. Section 5841 of the Revenue and Taxation Code is amended to read:

5841. The Department of Housing and Community Development shall furnish to the county assessor of the county in which a mobilehome is sited, on or before the last day of each calendar month, a listing of all new registrations and titles to mobilehomes sited, or to be sited, in that county.

SEC. 8. Section 10759.5 of the Revenue and Taxation Code is repealed.

SEC. 9. Section 10760 of the Revenue and Taxation Code is repealed.

SEC. 10. Section 10760 is added to the Revenue and Taxation Code, to read:

10760. (a) Notwithstanding any other provision of law, a mobilehome sold new on or before June 30, 1980, on which the license fee required to be paid under this part has been delinquent for 120 days or more, shall not be subject to local property taxation, if a request for reinstatement to the vehicle license fee under this part is filed with the Department of Housing and Community Development with a postmark dated no later than December 31, 1986, showing verification by the county tax collector that payment of property taxes on the mobilehome is current, as of the date of filing.

(b) Applications for filing for reinstatement pursuant to this section shall be provided by the Department of Housing and Community Development through its offices and offices of county assessors and county tax collectors.

(c) A mobilehome shall not qualify for reinstatement to the license fee under this part unless payment of property taxes on the mobilehome is current. Reinstatement applications shall include a provision for county tax collectors to verify that the payment of property taxes is current. For purposes of this section, mobilehome

owners who submit reinstatement applications to the tax collector for verification prior to September 1st of the fiscal year for which property taxes on the mobilehome will be due and whose verified applications are filed with the department with a postmark date no later than 30 days thereafter are considered current on the payment of property taxes if the payment of property taxes on the mobilehome for prior fiscal years has been satisfied.

(d) Any used mobilehome, the sale of which has not been subject to sales or use tax pursuant to Section 6379 or Section 18116.5 of the Health and Safety Code, shall not qualify for reinstatement to the license fee under this part unless, in addition to the other requirements of this section, the full sales or use tax liability on the last sale, which would have been owed if the mobilehome had not been subject to property taxation, is paid.

(e) The Department of Housing and Community Development, upon receiving the verified reinstatement application and determining that the requirements of this section have been complied with, shall reinstate the mobilehome to the license fee, establish a license fee renewal date for the mobilehome, and notify the county tax assessor to remove the mobilehome from the local property tax roll.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to prevent additional mobilehomes of mobilehome owners who are delinquent in the payment of vehicle license fees because of a lack of notice of the renewal of those fees from being transferred to property taxation, and to permit the mobilehomes of mobilehome owners already transferred to property taxation to be reinstated to the vehicle license fee in accordance with the provisions of this act at the earliest possible time, it is necessary that this act take effect immediately.

CONCURRENT AND JOINT RESOLUTIONS AND CONSTITUTIONAL AMENDMENTS

1983–84

REGULAR SESSION

1984 RESOLUTION CHAPTERS

RESOLUTION CHAPTER 1

Assembly Concurrent Resolution No. 7—Relative to the creation of the Joint Committee on Public Pension Fund Investments.

[Filed with Secretary of State January 10, 1984]

Resolved by the Assembly of the State of California, the Senate thereof concurring, as follows:

(1) The Joint Committee on Public Pension Fund Investments is hereby created, authorized and directed to ascertain, study and analyze all facts relating to the following:

(a) Increasing the yield on portfolio investments of all California public pension funds.

(b) Improving the financial responsibilities of corporations to their public pension fund shareholders, including improved financial information, better communication, and responsive practices concerning shareholder voting rights.

(c) Evaluating portfolio potential, including, but not limited to, the operation, effect, administration, enforcement and needed revision of any and all laws in any way bearing upon or relating to the subject of this resolution.

(2) The committee shall consist of four Members of the Senate, appointed by the Committee on Rules thereof, and four Members of the Assembly, appointed by the Speaker thereof. The chairperson of the committee shall be appointed pursuant to Joint Rule 36.7. Vacancies occurring in the membership of the committee shall be filled by the appointing power.

(3) The committee is authorized to act during 1983–84 Regular Session of the Legislature, including any recess, until November 30, 1984, on which date the committee shall terminate.

(4) The committee and its members shall have and exercise all of the rights, duties and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee and its members.

(5) The committee has the following additional powers and duties:

(a) To contract with a consultant, if a consultant is not otherwise retained by the Legislature or either house thereof, and to hire necessary staff, as approved by the Chairman or Chief Administrative Officer of the Joint Rules Committee.

(b) To appoint an advisory committee consisting of persons knowledgeable in the subject of investment of pension funds, to assist the committee, the Investment Practices Subcommittee of the Assembly Committee on Finance and Insurance, and staff.

(c) To make recommendations regarding ways to improve the rate of return on California public pension funds.

(d) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies and report to the committee as will best assist it to carry out the purposes for which it is created.

(e) To cooperate with and secure the cooperation of county, city, city and county, and other local law enforcement agencies in investigating any matter within the scope of this resolution and to direct the sheriff of any county to serve subpoenas, orders and other process issued by the committee.

(f) To obtain, with the approval of the Chairman or Chief Administrative Officer of the Joint Rules Committee, all necessary office space, equipment, and materials.

(g) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution.

(6) The committee, through its staff and its consultant, in achieving the objective specified in subdivision (a) of Section 1, shall do the following:

(a) Analyze all California public pension funds to determine how well they maximize income and minimize costs.

(b) Determine, for each California public pension fund, but without considering any statutory or constitutional limit, and assuming an acceptable risk and taking into account the portfolio size, a real investment return potential.

(c) Determine the extent to which each fund falls short of the real investment return potential determined pursuant to subdivision (b).

(d) As to any fund not reaching the real investment return potential, identify the reasons therefor.

(e) Determine what changes should be made by amending the Constitution, statutes, or administrative regulations and what organizational changes should be made, including budget, hiring of advisers as independent contractors, hiring of traders as independent contractors, and the use of electronic data equipment.

(7) The committee, through its staff and its consultant, in achieving the goal specified in subdivision (b) of Section 6, shall do all of the following:

(a) Determine the potential for providing additional income without sacrificing risk or return.

(b) Determine the extent to which the funds now fall short of achieving additional income.

(c) Determine the identifiable reasons for failures to meet the potential.

(d) Determine what changes should be made by amending the Constitution, statutes, or administrative regulations and what organizational changes should be made, including budget, hiring of advisers as independent contractors, hiring of traders as independent contractors, and the acquisition or modification of electronic data equipment.

(8) The committee, through its staff and its consultant, in

achieving the objectives specified in subdivision (c) of Section 1, shall do the following:

(a) Test a variety of investment hypotheses.

(b) Determine the effects on yield by share voting and alternative investments, through analyses using costs and time and the utilization of computers.

(9) The consultant retained by the Legislature shall work with the committee, the advisory committee, and the members and staff of the Assembly Committee on Finance and Insurance and the Joint Legislative Retirement Committee, and shall provide assistance to the author of any resulting bill.

(10) The consultant retained by the Legislature shall meet with the administrators and the administering bodies of the public and private pension funds to attempt to implement recommended organizational changes and any legislative changes in order to accomplish the recommendations of the consultant which have been approved by the committee, the Investment Practices Subcommittee of the Assembly Committee on Finance and Insurance, or the Joint Legislative Retirement Committee.

(11) The Joint Rules Committee may make such money available from the Contingent Funds of the Assembly and Senate as it deems necessary for the expenses of the committee and its members. In accordance with Joint Rule 36.8, any such expenditure of funds shall be made in compliance with policies set forth by the Joint Rules Committee and shall be subject to the approval of the Joint Rules Committee.

RESOLUTION CHAPTER 2

Senate Constitutional Amendment No. 14—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 2 of Article XIII A thereof, relating to taxation.

[Filed with Secretary of State January 20, 1984.]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 1983–84 Regular Session commencing on the sixth day of December, 1982, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended by amending Section 2 of Article XIII A thereof, as follows:

SEC. 2. (a) The full cash value means the county assessor's valuation of real property as shown on the 1975–76 tax bill under "full cash value" or, thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has

occurred after the 1975 assessment. All real property not already assessed up to the 1975–76 full cash value may be reassessed to reflect that valuation. For purposes of this section, the term "newly constructed" shall not include real property which is reconstructed after a disaster, as declared by the Governor, where the fair market value of such real property, as reconstructed, is comparable to its fair market value prior to the disaster. Also, the term "newly constructed" shall not include the portion of reconstruction or improvement to a structure, constructed of unreinforced masonry bearing wall construction, necessary to comply with any local ordinance relating to seismic safety during the first 15 years following that reconstruction or improvement.

(b) The full cash value base may reflect from year to year the inflationary rate not to exceed 2 percent for any given year or reduction as shown in the consumer price index or comparable data for the area under taxing jurisdiction, or may be reduced to reflect substantial damage, destruction or other factors causing a decline in value.

(c) For purposes of subdivision (a), the Legislature may provide that the term "newly constructed" shall not include the construction or addition of any active solar energy system.

(d) For purposes of this section, the term "change in ownership" shall not include the acquisition of real property as a replacement for comparable property if the person acquiring the real property has been displaced from the property replaced by eminent domain proceedings, by acquisition by a public entity, or governmental action which has resulted in a judgment of inverse condemnation. The real property acquired shall be deemed comparable to the property replaced if it is similar in size, utility, and function, or if it conforms to state regulations defined by the Legislature governing the relocation of persons displaced by governmental actions. The provisions of this subdivision shall be applied to any property acquired after March 1, 1975, but shall affect only those assessments of that property which occur after the provisions of this subdivision take effect.

RESOLUTION CHAPTER 3

Assembly Joint Resolution No. 57—Relative to California agricultural pest management.

[Filed with Secretary of State January 20, 1984.]

WHEREAS, Agriculture is nearly a 14 billion dollar industry in California and is the state's number one industry in terms of cash value and productivity; and

WHEREAS, Over 1 million Californians are employed in

agriculture and other related industries; and

WHEREAS, Exports of this state's agricultural products are beneficial to the economy of the state and the balance of payments of this country; and

WHEREAS, Agricultural pests represent a serious threat to California's agriculture industry and the state's economy; and

WHEREAS, The boll weevil and other pests have caused a significant amount of damage to cotton and other commodities; and

WHEREAS, The expense of adequate pest management is cost-effective compared to the costs of handling pest problems resulting from inadequate management; and

WHEREAS, Pest exclusion is an essential segment of pest management; and

WHEREAS, Pest eradication programs are expensive; and

WHEREAS, Recent agricultural pest outbreaks and crises warrant increased pest exclusion and management efforts; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the United States Department of Agriculture (U.S.D.A.) increase its agricultural pest inspection activities at California's Mexican border and at California's international points of entry; and be it further

Resolved, That the U.S.D.A. increase its participation in California's pest eradication programs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the President and Vice President of the United States, to the Secretary of Agriculture, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 4

Senate Concurrent Resolution No. 46—Relative to school health week.

[Filed with Secretary of State January 27, 1984]

WHEREAS, All students have the right to develop to their maximum potential in accordance with their individual differences and needs; and

WHEREAS, A student's educational achievement can be affected by his or her health status; and

WHEREAS, The need for education about health and health care is greater today than ever before because of choices people make each day about exercise, diet and the use of alcohol and drugs; and

WHEREAS, The lack of parenting skills has contributed to the problems of juvenile delinquency, child abuse and deterioration of the family unit; and

WHEREAS, The early identification, intervention and remediation of student health problems decreases impediments to learning; and

WHEREAS, There has been an increase in school violence and vandalism, unwanted pregnancies and substance abuse necessitating crises intervention; and

WHEREAS, There has been an increased enrollment of immigrant children and youth with many health problems; and

WHEREAS, There has been an increased enrollment in regular classes of students with multiple and severe handicaps; and

WHEREAS, Public educational agencies are mandated to provide diligent care to the health and physical development of all pupils; and

WHEREAS, The credentialed school nurse, because of his or her academic preparation and professional expertise, is the staff member uniquely qualified to address these critical issues by implementing a school health services and education program which includes:

(a) Health counseling.

(b) Immunizations.

(c) Health screening and assessments.

(d) Emergency care.

(e) Staff and parent education.

(f) Prevention education in alcohol and drug abuse and child abuse.

(g) Services to students and parents in special education.

(h) Community liaison activities; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California recognizes the unique contribution of the professional credentialed school nurse to the total educational program by proclaiming January 23 to 27, 1984 as School Health Week in California; and be it further

Resolved, That the Legislature encourages counties and school districts to utilize the services of the school nurse to meet the above needs; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to Betty McGinnis, President of the California School Nurses Organization.

RESOLUTION CHAPTER 5

Assembly Concurrent Resolution No. 107—Relative to commending the Los Angeles Raiders.

[Filed with Secretary of State January 31, 1984.]

WHEREAS, The City of Los Angeles and the State of California have been honored this year by the spirit and performance of the Los Angeles Raiders, world champions of professional football for 1983–84; and

WHEREAS, The Los Angeles Raiders, under the dynamic leadership of Head Coach Tom Flores, compiled a won-lost record of 12-4 in route to capturing the championship of the Western Division of the American Football Conference; and

WHEREAS, After defeating the Pittsburgh Steelers, 38-10, in the first round of the playoffs, the Raiders captured the American Football Conference title with a 30-14 victory over the Seattle Seahawks; and

WHEREAS, In Tampa, Florida on January 22, 1984, the Raiders defeated the Washington Redskins by a score of 38-9, to win Super Bowl XVIII and the championship of the National Football League; and

WHEREAS, Against all opponents and in spite of controversy, throughout the years the members of the Raiders have demonstrated a unique esprit de corps and dedication to excellence which serve as a lesson in character to the athletes and fans of the State of California; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California hereby commends all members of the World Champion Los Angeles Raiders and its organization for their magnificent performances throughout the football season, and especially in the NFL Playoff and Super Bowl XVIII; and be it further

Resolved, That the Legislature thanks the Raiders for the honor they have continually brought to California sports enthusiasts and fans of professional football; and be it further

Resolved, That suitably prepared copies of this resolution be transmitted to owner Al Davis, to the coaching staff, led by Head Coach Tom Flores, and to all of the members of the 1983–84 world champions of professional football, the Los Angeles Raiders.

RESOLUTION CHAPTER 6

Senate Concurrent Resolution No. 51—Relative to commending the Los Angeles Raiders.

[Filed with Secretary of State February 1, 1984.]

WHEREAS, In the 1983 regular season of the National Football League, the Los Angeles Raiders posted a record of 12 wins and 4 losses; and

WHEREAS, The Raiders won the American Football Conference Championship, and capped their season with a 38-9 win over the

Washington Redskins in Super Bowl XVIII, the National Football League's 1983–84 world championship game; and

WHEREAS, The Raiders' participation in Super Bowl XVIII marks the fourth time the California sports franchise has represented the state in the Super Bowl, and the third time the Raiders have been victorious; and

WHEREAS, In Super Bowl XVIII, Marcus Allen, a running back for the Raiders, set a new Super Bowl rushing record by picking up 191 yards and two touchdowns in just 20 carries; and

WHEREAS, Allen further distinguished himself by winning the coveted "Most Valuable Player" award for the game and by breaking the single-carry rushing record by dashing into the end zone on a 74-yard run; and

WHEREAS, In Super Bowl XVIII, the Los Angeles Raiders set new Super Bowl records by scoring 38 points and posting the largest margin of victory—29 points; and

WHEREAS, Since the franchise's inception as a California team in 1960, the Raiders have won more AFL and AFC Western Division championships than any other team; and

WHEREAS, The Raiders' organization has contributed to the commerce and prestige of the State of California, as well as providing the state's citizens with innovative and unprecedented sports excitement; and

WHEREAS, The team's slogans—"Pride and Poise" and "A Commitment to Excellence"—are demonstrative of the competitive and Californian spirit with which the team pursues its goals; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California salutes the Los Angeles Raiders franchise, Head Coach Tom Flores, Manager and General Partner Al Davis, Super Bowl XVIII MVP Marcus Allen, and all of the staff and team members of the Los Angeles Raiders for their victory in Super Bowl XVIII; and be it further

Resolved, That the Secretary of the Senate transmit suitably prepared copies of this resolution to Tom Flores, Al Davis, and Marcus Allen.

RESOLUTION CHAPTER 7

Assembly Concurrent Resolution No. 72—Relative to exemplary pupil attendance.

[Filed with Secretary of State February 3, 1984.]

WHEREAS, Education is of vital importance to the development of the youth of this state; and

WHEREAS, A good education is essential in our complex and technologically oriented society; and

WHEREAS, No pupil who is constantly absent from school can obtain an adequate education; and

WHEREAS, Acknowledgment of good attendance acts as a positive reinforcement and promotes further good attendance habits; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Superintendent of Public Instruction establish guidelines for determining exemplary pupil attendance and that the superintendent urge school districts to acknowledge exemplary pupil attendance by appropriate annotation on the report cards of pupils in grades 1 through 8 and on the transcripts of pupils in grades 9 through 12; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Superintendent of Public Instruction.

RESOLUTION CHAPTER 8

Assembly Joint Resolution No. 78—Relative to social security coverage of existing employees of nonprofit organizations.

[Filed with Secretary of State February 3, 1984]

Resolved, by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation which amends Section 102 of the Social Security Amendments of 1983 to ensure that existing employees of nonprofit organizations are excluded from social security coverage in the same manner as existing federal employees and to provide that new employees of nonprofit organizations will be covered by social security as will be new federal employees; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 9

Assembly Joint Resolution No. 86—Relative to offshore oil drilling.

[Filed with Secretary of State February 9, 1984.]

WHEREAS, The Department of the Interior has proposed Lease Sale 80 to expand oil drilling off the California coast; and

WHEREAS, The California Legislature believes that the coastline of California and the waters off this coast represent an important natural resource which must be preserved; and

WHEREAS, The southern California coastline is a prime recreation and tourism area which contributes substantially to the economy of the region; and

WHEREAS, Increased oil and gas exploration and development is occurring off the coast of California without adequate or sufficient analysis of the cumulative effects of such exploration; and

WHEREAS, There is potential negative impact on endangered species, the environment, and the economy of the region; and

WHEREAS, Only a single meeting was held in San Diego to determine the scope of the draft environmental impact statement (DEIS) and that meeting did not include opportunities for the general public to participate; and

WHEREAS, Local governments have expressed serious reservations regarding the validity and thoroughness of the DEIS; and

WHEREAS, The DEIS has not indicated that oil and gas reserves in the tracts off the southern California coast compensate for the deterioration of air quality and potential oil spill damage that could result; and

WHEREAS, A detailed analysis of transportation and refining problems associated with the production of resources from these tracts was not provided in the DEIS; and

WHEREAS, On December 6, 1983, it was revealed in a final environmental impact statement on Lease Sale 80, that the United States Navy called for exclusion of 60 percent of the 11.6 million offshore acres contained in Lease Sale 80, citing that "there is no place within the Southern California lease offering area in which oil or gas exploration or production, even with the most stringent stipulations, can occur without significant impact to the Department of Defense and the nation's defense"; and

WHEREAS, The United States Navy in the same statement also charged that the waters off the San Diego County coastline are "the most heavily used naval operating areas anywhere in the world"; and

WHEREAS, A number of tracts in the proposed Lease Sale 80 coincide with hazardous waste dump sites and could present a significant threat to the environment and public health; and

WHEREAS, There already exists the potential for geologic hazards and seismic risks in the waters off the southern California coast; and

WHEREAS, Military operations would be negatively impacted which would jeopardize our national security and defense; and

WHEREAS, Revisions in outer continental shelf regulations, orders, and standard lease sale stipulations, consistent with local and state government recommendations, may be necessary; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California strongly urges the President and Congress of the United States to delete from the proposed Lease Sale 80 until January 1986, those tracts off the San Diego County coastline, and to conduct comprehensive, area-wide public hearings to permit a full range of citizen groups to participate in the process and express their concerns on the special needs of the San Diego area, and to establish a local, technical advisory committee to meet with and advise the Department of the Interior in a joint review of existing procedures, policies, and regulations governing outer continental shelf development to determine if the proposed Lease Sale 80 meets the requirements of the Outer Continental Shelf Lands Act, the Coastal Zone Management Act, the National Environmental Protection Act, and the Endangered Species Act, and to determine what changes may be necessary in procedures and regulations; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of Representatives and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 10

Assembly Concurrent Resolution No. 100—Relative to Earthquake Awareness Week.

[Filed with Secretary of State February 14, 1984.]

WHEREAS, Based on scientific information, a severe earthquake can be expected to occur in Southern California within the next 30 years; and

WHEREAS, Such a quake could exceed "7" on the Richter scale, and could result in 180,000 Californians being killed, injured, or left homeless; and

WHEREAS, All levels of government are taking steps to encourage and develop public awareness of earthquakes and steps to mitigate their damage, including the enactment of stringent building standards to ensure structures which are earthquake resistant and to lessen the earthquake dangers from existing buildings; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby proclaims February 5–11, 1984, as California Earthquake Awareness Week and urges all Californians to engage in appropriate activities during that week; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of

this resolution to the Governor, the Seismic Safety Commission, the Board of Supervisors of the County of Los Angeles, and the City Council of the City of Los Angeles.

RESOLUTION CHAPTER 11

Senate Concurrent Resolution No. 45—Relative to the Joint Committee on the State's Economy.

[Filed with Secretary of State February 22, 1984]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Joint Committee on the State's Economy and the advisory committees created pursuant to Resolution Chapter 4 of the Statutes of 1980 are continued in existence through November 30, 1984, notwithstanding the provisions of any prior concurrent resolution affecting these committees. The committee shall continue to have the powers and duties granted and imposed by the resolutions creating and continuing it. The committee may expend any funds heretofore or hereafter made available, and further allocations may be made by the Joint Rules Committee. In accordance with Joint Rule 36.8, any expenditure of funds by the committee shall be made in compliance with policies set forth by, and subject to the approval of, the Joint Rules Committee.

RESOLUTION CHAPTER 12

Assembly Concurrent Resolution No. 106—Relative to Women's History Week.

[Filed with Secretary of State February 24, 1984.]

WHEREAS, The celebration of National Women's History Week each year provides an opportunity for schools and communities to focus attention on the lost heritage of women's contributions in the United States; and

WHEREAS, National Women's History Week coincides with International Women's Day, March 8, originally proclaimed at the turn of the century to recognize the valuable work of women in the labor movement and the international concerns of all women, and the 76th anniversary of International Women's Day will be celebrated this year; and

WHEREAS, The observance of Women's History Week was begun by the Sonoma County Commission on the Status of Women in Sonoma County, California, in 1978, and has since been

commemorated by school districts, educators, historians and community groups throughout the state and across the nation, due largely to the efforts of the National Women's History Week Project based in California; and

WHEREAS, Throughout history, the significant roles of women have largely been discounted, stereotyped, or ignored; and

WHEREAS, In addition, the lives of women from diverse cultures are seldom mentioned in history books, and in educational curricula there is very little focus on the many contributions of women in the areas of literature, drama, art, poetry, and music; and

WHEREAS, Because of the significance and scope of women's role in the making of history and in the development of American culture and society, it is important that the State of California recognize the many contributions of women; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That they take pleasure in joining with the California Commission on the Status of Women in honoring the contributions of women, and urge all Californians to join in the celebration of International Women's Day on March 8, 1984; and be it further

Resolved, That the week of March 4 through 10, be designated as Women's History Week; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Chair of the California Commission on the Status of Women for distribution to appropriate organizations.

RESOLUTION CHAPTER 13

Assembly Concurrent Resolution No. 132—Relative to vision.

[Filed with Secretary of State March 6, 1984]

WHEREAS, Good vision enhances the quality of life and productivity of our citizens; and

WHEREAS, People can do much to preserve and protect their precious sight; and

WHEREAS, Optometrists, ophthalmologists, and opticians recognize that it is their duty to protect the sight of the citizenry; and

WHEREAS, Optometrists, ophthalmologists, and opticians have demonstrated their commitment to visual welfare through vision screenings conducted throughout the state; and

WHEREAS, The education of the citizenry to eye care is a crucial component of the services provided by doctors of optometry and other health care professionals if the well-being of the citizenry is to be properly maintained; and

WHEREAS, Save Your Vision Week should be observed to remind people about the importance of proper vision care and maintenance

and to teach the public the rudiments of eye care necessary to ensure good vision health; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature proclaim the week of March 4–10, 1984, as Save Your Vision Week, and be it further

Resolved, That March 4–10, 1984, be recognized in conjunction with National Save Your Vision Week; and be it further

Resolved, That all Californians are urged to join together in recognizing the need to cherish and protect their eyesight; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to the California Optometric Association.

RESOLUTION CHAPTER 14

Assembly Concurrent Resolution No. 141—Relative to Wellness Week.

[Filed with Secretary of State March 9, 1984]

WHEREAS, The week of March 11–17, 1984, has been designated by the California Council on Wellness and Physical Fitness as "Wellness Week" in California, the purpose of which is to heighten health awareness, promote health enhancement, and improve the quality of health and well-being throughout the state; and

WHEREAS, The purpose of the Committee on Health Education of the Public is to provide educational resources and materials to assist physicians in educating their patients about health maintenance and medical care and to provide health education materials to the public; and

WHEREAS, Each day of Wellness Week has a particular focus: Monday is Self-Responsibility Day; Tuesday is Nutritional Awareness Day; Wednesday is Stress Management Day; Thursday is Physical Fitness Day; and Friday is Evironmental Sensitivity Day; and

WHEREAS, During this period, Californians throughout the state will be participating in a calendar of wellness programs and activities; and

WHEREAS, Wellness Week will serve as a prototype for an ongoing awareness of wellness and for activities throughout the year; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That they take great pleasure in joining the California Council on Wellness and Physical Fitness in proclaiming the week of March 11 through 17, 1984, as "Wellness Week 1984," and urge their fellow Californians to participate and support the activities of this health prevention program to enhance the quality

of life; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the California Council on Wellness and Physical Fitness and to the Committee on Health Education of the Public.

RESOLUTION CHAPTER 15

Senate Concurrent Resolution No. 73—Relative to Wellness Week.

[Filed with Secretary of State March 13, 1984.]

WHEREAS, The week of March 11–17, 1984, has been designated by the California Council on Wellness and Physical Fitness as "Wellness Week" in California, the purpose of which is to heighten health awareness, promote health enhancement, and improve the quality of health and well-being throughout the state; and

WHEREAS, The purpose of the Committee on Health Education of the Public is to provide educational resources and materials to assist physicians in educating their patients about health maintenance and medical care and to provide health education materials to the public; and

WHEREAS, Each day of Wellness Week has a particular focus: Monday is Self-Responsibility Day; Tuesday is Nutritional Awareness Day; Wednesday is Stress Management Day; Thursday is Physical Fitness Day; and Friday is Environmental Sensitivity Day; and

WHEREAS, During this period, Californians throughout the state will be participating in a calendar of wellness programs and activities; and

WHEREAS, Wellness Week will serve as a prototype for an ongoing awareness of wellness and for activities throughout the year; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That they take great pleasure in joining the California Council on Wellness and Physical Fitness in proclaiming the week of March 11 through 17, 1984, as "Wellness Week 1984," and urge their fellow Californians to participate and support the activities of this health prevention program to enhance the quality of life; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the California Council on Wellness and Physical Fitness and to the Committee on Health Education of the Public.

RESOLUTION CHAPTER 16

Assembly Concurrent Resolution No. 104—Relative to National Agriculture Week.

[Filed with Secretary of State March 13, 1984]

WHEREAS, Agriculture is California's leading industry, providing a vital link in a chain, either directly or indirectly, involving millions of Californians in getting food from the farmers' fields to the consumers; and

WHEREAS, California's agricultural productivity forms the cornerstone of the state's economy, contributing nearly fifteen billion dollars ($15,000,000,000) in gross farm receipts from the production of 250 different crops and livestock products; and

WHEREAS, California is the leading agriculture producing state in the United States, nine of the nation's top 12 agriculture producing counties are located in this state, and California's food and fiber is a vital ingredient in our strength as a nation, both domestically and on the world scene; and

WHEREAS, California, recognizing the importance of youths in agriculture, boasts one of the finest agricultural educational systems in the world, with its universities and colleges being leading innovators of research and development in everything from farm implements to crop strains; and

WHEREAS, To maintain a healthy industry and promote a better economy, it is necessary that all of the people in the United States should be aware of, and have an interest in, the manner in which agriculture affects their everyday lives; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby proclaims the week of March 19 through March 25, 1984, as "National Agriculture Week" and March 20, 1984, as "Agriculture Day"; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor and to the President of the United States.

RESOLUTION CHAPTER 17

Senate Joint Resolution No. 27—Relative to federal funds for American Indian child welfare service programs.

[Filed with Secretary of State March 20, 1984]

WHEREAS, Title II of the federal Indian Child Welfare Act of 1978 (Public Law 95-608) authorized the United States Secretary of the Interior to make grants to Indian tribes and organizations for the establishment and operation of Indian child and family service

programs; and

WHEREAS, More than 201,000 American Indians, a larger number than in any other state, are residents of California, and the state includes approximately 82 federally recognized Indian tribes; and

WHEREAS, California's share of funds made available under Title II of the Indian Child Welfare Act has substantially decreased over the past three fiscal years; and in fiscal year 1982 the allocation of these funds to Indian people in California was decreased by 40 percent when the total appropriation for the act was only decreased by 4 percent; and

WHEREAS, In fiscal year 1984 California's appropriation was again decreased, and in fiscal year 1985 the United States Bureau of Indian Affairs is proposing to further reduce funding despite the documented need for the program services provided by the federal act; and

WHEREAS, This decrease is based on the decision to discontinue the provisions of grants to off-reservation programs, although these programs are important to urban as well as to rural residents because other services are not tailored to the special needs of Indians; and

WHEREAS, The United States Senate Select Committee on Indian Affairs, pursuant to the Congressional Budget Act of 1974, has recommended that the Indian Child Welfare Program be continued both on and off the reservation with an increase in funding from the present $8.7 million to $12 million; and

WHEREAS, To again reduce California's allocations of funds under Title II would result in the loss of important child welfare and social services and inflict a serious injustice on the Indian population of this state; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to increase the appropriation for Title II of the Indian Child Welfare Act of 1978 to $12 million as recommended by the Senate Select Committee on Indian Affairs, in order to more adequately meet the needs of American Indians in California and throughout the nation, and to continue funding of all Title II programs both on and off the reservation; and be it further

Resolved, That the President and the Congress of the United States direct the Bureau of Indian Affairs to restore to the Indian people in California an equitable share of funding under Title II based upon population and need and that supplemental hearings be held to increase California's allocation of Title II funds for fiscal year 1985; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 18

Assembly Concurrent Resolution No. 95—Relative to Cancer Awareness Week 1984.

[Filed with Secretary of State March 21, 1984.]

WHEREAS, The California Division of the American Cancer Society has chosen April 2 through 8, 1984, as Cancer Awareness Week to focus the public's attention on the importance of learning to reduce the risk of getting cancer; and

WHEREAS, The American Cancer Society projects that within the next two years, breast cancer will be the number one cause of cancer deaths in women aged 15 to 75 years and that 1 in every 11 women will contract breast cancer; and

WHEREAS, Three out of eight cancer patients are being cured today; and

WHEREAS, As a result of ever-improving diagnostic and treatment methods more than 3 million Americans with a history of cancer are cured of the disease; and

WHEREAS, Four out of eight cancer patients could be cured with current medical knowledge and treatment methods if the cancer is detected early and treated promptly; and

WHEREAS, Ninety percent of all breast cancers are detected through early self-detection, underscoring the need for education in self-examination, which will result in improved survival rates for patients; and

WHEREAS, The primary goal of the American Cancer Society is to decrease the number of cancer deaths and the pain and suffering that accompanies the disease; and

WHEREAS, The best defense against cancer is public education; and

WHEREAS, Members of the public are encouraged to contact their local American Cancer Society office to obtain a free personal test on determining their risk of cancer and tips on risk reduction; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That April 2 through 8, 1984, be proclaimed as "Cancer Awareness Week;" and be it further

Resolved, That all Californians are urged to learn about cancer prevention, early detection, and seeking prompt medical treatment upon diagnosis to insure the continuation of advances in the war against cancer; and be it further

Resolved, That California physicians and surgeons, nurses, and private health care providers are strongly urged to stress the importance of breast self-examination to their female patients and where possible incorporate self-examination techniques in patient preventive care plans; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably

prepared copy of this resolution to the California Commission on the Status of Women, the president of each county board of supervisors in this state, and the president of each county medical society in this state.

RESOLUTION CHAPTER 19

Senate Concurrent Resolution No. 70—Relative to commending Bill Johnson.

[Filed with Secretary of State March 21, 1984]

WHEREAS, Bill Johnson, a resident of Van Nuys, has brought great happiness and pride to Americans—and especially to his fellow Californians—with his breathtaking achievement in the recent 1984 Winter Olympic Games at Sarajevo, Yugoslavia; and

WHEREAS, In Sarajevo, Bill won a gold medal in the Men's Downhill Alpine Ski Race, averaging approximately 65 miles per hour as he completed the course in 1:45.59; and

WHEREAS, Bill is the only American man ever to win any medal, much less a gold medal, in the Olympic Men's Downhill; and

WHEREAS, Bill was the first American man ever to win a gold medal in any Alpine ski race; and

WHEREAS, Born in Los Angeles in 1960, Bill lived in Canoga Park in the San Fernando Valley until his family moved to Boise, Idaho when he was 6 years old; and

WHEREAS, Bill started skiing at Bogus Basin, Idaho, and later, after his family moved to Portland, Oregon, he raced for eight years at Mount Hood, Oregon; and

WHEREAS, After the 1980 Winter Olympics in Lake Placid, New York, where Bill was a forerunner for the downhill event, he was asked to try out for the U.S. Ski Team; and

WHEREAS, Bill attracted worldwide attention during the 1982–83 ski racing season, when he won the overall championship of the Europa Cup circuit and the U.S. National Downhill title; and

WHEREAS, During the 1983–84 ski racing season, Bill has a World Cup victory to his credit—a first in the downhill at Wengen, Switzerland; and

WHEREAS, Bill performed brilliantly in the training runs on the Olympic downhill course on Bjelasnica Mountain, and therefore he approached the medal competition with tremendous confidence; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California commends Bill Johnson for his historic gold-medal-winning performance in Sarajevo and wishes him success in his future endeavors; and be it further

Resolved, That a suitably prepared copy of this resolution be presented to Bill Johnson.

RESOLUTION CHAPTER 20

Assembly Concurrent Resolution No. 65—Relative to the month of May, Better Hearing and Speech Month.

[Filed with Secretary of State March 22, 1984]

WHEREAS, The attitudes of society are influenced by limited understanding and limited contact with deaf and otherwise hearing-impaired persons; and

WHEREAS, Hearing impairment, though not visible, is always a serious communication handicap, and especially when it occurs in a bilingual era; and

WHEREAS, These attitudinal and communication circumstances accompanying hearing impairment are barriers to human relationships and full participation in community services and activities shared routinely by society in general; and

WHEREAS, Through the efforts of Quota Clubs, these attitudinal and communication barriers are being steadily reduced; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby takes pleasure in joining the President of the United States and the Council for Better Hearing and Speech Month in proclaiming May as Better Hearing and Speech Month; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to Pat Ostrye, President of the Monrovia-Duarte Club of Quota International, Inc., for distribution to appropriate organizations.

RESOLUTION CHAPTER 21

Assembly Joint Resolution No. 87—Relative to agricultural pests.

[Filed with Secretary of State March 23, 1984.]

WHEREAS, The California Legislature recognizes the plant and animal pest and disease problems associated with the large number of visitors expected at the 1984 Olympics in California; and

WHEREAS, There will be hundreds of thousands of visitors from throughout the United States and from over 50 foreign countries at the Olympic games; and

WHEREAS, Many of these foreign countries have plant and

animal pests and diseases that do not exist in California; and

WHEREAS, There is a high possibility that pests and diseases harmful to California's agriculture, forests, and urban areas may be transmitted by organisms carried in food or meat or other articles brought in by these visitors; and

WHEREAS, The introduction of foreign pests and diseases could severely damage California's $14 billion agricultural industry, and the state's recreational and urban areas; and

WHEREAS, The increased travel to California will make dramatic demands upon resources needed to enforce quarantine requirements at all points of entry into California; and

WHEREAS, The need for increased resources is especially critical at seaports and airports; and

WHEREAS, Special precautions must be taken to prevent introductions of pests and diseases into California and the United States; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the United States Department of Agriculture to meet with the California Department of Food and Agriculture and county agricultural commissioners to develop a plan to protect California from pest and disease introductions associated with the 1984 Olympics; and be it further

Resolved, That the federal government is respectfully memorialized to provide the additional temporary resources to carry out the needed inspections at the airports and other points of entry that will experience increased use in association with the 1984 Olympics to prevent the introduction of foreign pests and diseases into California; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the United States Secretary of Agriculture, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 22

Assembly Concurrent Resolution No. 93—Relative to pupil performance standards.

[Filed with Secretary of State March 23, 1984.]

WHEREAS, The State Board of Education and the Superintendent of Public Instruction have recently undertaken the task of developing statewide graduation requirements and model curriculum standards to be made available to local school districts in 1983; and

WHEREAS, The State Board of Education and the Superintendent of Public Instruction will require each school district governing board to review its existing graduation requirements and curriculum standards in 1984 by comparing them to the model standards and guidelines; and

WHEREAS, The Legislature has mandated through the provisions of Chapter 498 of the Statutes of 1983 that no pupil shall receive a high school diploma commencing with the 1986–87 school year unless he or she has completed a specified set of courses; and

WHEREAS, The Legislature recognizes that students in vocational education programs must receive quality education which does not interfere with their vocational education needs; and

WHEREAS, Concern has been expressed that vocational education programs may suffer indirectly or inadvertently through the establishment of graduation standards; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Board of Education and the State Department of Education develop vocational education standards consistent with the new updated graduation requirements, and that an advisory board be established to determine whether the needs of students, including limited-English-proficient students, enrolled in vocational education programs are being met and whether they are affected by the new graduation requirements and curriculum standards; and be it further

Resolved, That the State Board of Education and the State Department of Education submit a report to the Legislature on these issues on or before January 1, 1986; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the State Board of Education and the State Department of Education.

RESOLUTION CHAPTER 23

Senate Concurrent Resolution No. 39—Relative to a Blue Star Memorial Highway.

[Filed with Secretary of State March 26, 1984]

WHEREAS, The Blue Star Memorial Highway Program was adopted by the National Council of State Garden Clubs, Inc., as a living tribute to the men and women of the nation's armed forces; and

WHEREAS, It is fitting and appropriate that further recognition be accorded the many citizens who have sacrificed for our country; and

WHEREAS, A Blue Star Memorial Highway of California is sponsored by the Cathey's Valley Garden Club in cooperation with

the Mariposa County Parks and Recreation Department, with the marker to be placed in Cathey's Valley County Park; and

WHEREAS, State Highway Route 140 extends from Interstate Route 5 near Gustine to Yosemite National Park; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That State Highway Route 140 be designated a Blue Star Memorial Highway; and be it further

Resolved, That the Department of Transportation may cooperate with California Garden Clubs, Inc., in erecting and maintaining appropriate memorial markers on Route 140; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Director of Transportation, the Secretary of the Business, Transportation and Housing Agency, the Cathey's Valley Garden Club, and the California Garden Clubs, Inc.

RESOLUTION CHAPTER 24

Senate Concurrent Resolution No. 41—Relative to State Highway Route 101.

[Filed with Secretary of State March 26, 1984.]

WHEREAS, The Blue Star Memorial Highway Program was adopted by the National Council of State Garden Clubs, Inc., as a living tribute to the men and women of the Nation's Armed Forces; and

WHEREAS, It is fitting and appropriate that further recognition be accorded the many citizens who have sacrificed for our country; and

WHEREAS, State Highway Route 101 extends the length of California from Los Angeles to the Oregon border; and

WHEREAS, The designation of Route 101 as a Blue Star Memorial Highway is sponsored by the Humboldt District of California Garden Clubs, Inc.; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That State Highway Route 101 be designated a Blue Star Memorial Highway; and be it further

Resolved, That the Department of Transportation may cooperate with the California Garden Clubs, Inc., in erecting and maintaining appropriate memorial markers on State Highway Route 101; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Director of Transportation, the Secretary of Business, Transportation and Housing Agency, and the Humboldt District of California Garden Clubs, Inc.

RESOLUTION CHAPTER 25

Assembly Concurrent Resolution No. 4—Relative to the Heritage Task Force.

[Filed with Secretary of State March 30, 1984.]

WHEREAS, The work of the Heritage Task Force, which was created pursuant to Resolution Chapter 75 of the Statutes of 1981, has not been completed; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, as follows:

1. The Heritage Task Force, which was created by Resolution Chapter 75 of the Statutes of 1981, is hereby continued in existence on the same terms and conditions as contained in Resolution Chapter 75 of the Statutes of 1981, except as modified by this resolution.

2. Notwithstanding Paragraph 8 of the *Resolved* clause of Resolution Chapter 75 of the Statutes of 1981, the Heritage Task Force shall terminate on November 30, 1984, and shall submit its report to the Legislature on or before that date.

3. Notwithstanding the provisions of Paragraph 9 of the *Resolved* clause of Resolution Chapter 75 of the Statutes of 1981, the Joint Rules Committee may make such money available from the Contingent Funds of the Assembly and Senate as it deems necessary for the expenses of the task force and its members.

RESOLUTION CHAPTER 26

Senate Joint Resolution No. 41—Relative to barriers to trade in wine.

[Filed with Secretary of State March 30, 1984.]

WHEREAS, There is a substantial imbalance in international wine trade resulting from the easy accessibility enjoyed by foreign wines to the California market which is in direct contrast to the export position of the California wine industry in virtually every existing or potential foreign wine market; and

WHEREAS, The United States government does not impose any nontariff trade obstacles to the entry, distribution, and sale of foreign wines; and

WHEREAS, Foreign wines move freely in the American market subject only to the same laws and regulations which apply to American wines and to payment of the lowest duties assessed anywhere in the world by a significant wine-producing country on foreign wine; and

WHEREAS, Even though California produces some of the finest wines in the world, this state's wine producers who seek to market

their products abroad are faced with a maze of restrictive and prohibitive tariff and nontariff barriers, thus placing California wine producers in an unfair position; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the California Legislature hereby respectfully memorializes the President and the Congress of the United States to enact legislation that would accomplish all of the following:

(1) Achieve access to foreign markets for United States wine substantially equivalent to the market access afforded to foreign wine by the United States.

(2) Provide the President of the United States with the authority and remedies to deal with trade barriers relating to wine; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 27

Senate Joint Resolution No. 29—Relative to American prisoners in Southeast Asia.

[Filed with Secretary of State April 2, 1984.]

WHEREAS, "Project: Bring Americans Home" is a volunteer, nonprofit organization, based in Orange County, California, that is dedicated to the identification and prompt repatriation of fellow American citizens unlawfully imprisoned as a consequence of past military hostilities in Southeast Asia; and

WHEREAS, Reliable information available to the United States Government indicates that substantial numbers of the 2,494 Americans officially listed as "missing in action" are in fact held in physical custody by one or more estranged governments of Southeast Asia; and

WHEREAS, "Project: Bring Americans Home" supports a reasoned and responsible effort to resolve this highly emotional issue of human enslavement by nonviolent, diplomatic initiatives even after 12 years of deliberate delay and misinformation by the offending nations; and

WHEREAS, The continuing injustices imposed upon those captive American citizens and their families must be condemned as ongoing violations of international law and human decency, as well as a latent threat to the ultimate achievement of world peace; now, therefore, be it

Resolved by the Senate and Assembly of the State of California,

jointly, That the Legislature of the State of California hereby memorializes the President and Congress of the United States to take immediate appropriate action to secure the prompt release of all American personnel now held as military or diplomatic prisoners by certain nations of Southeast Asia, including the governments of Vietnam and Laos; and be it further

Resolved, That the California Legislature herewith conveys the commendation and appreciation of the people of California to the organizers and participants of "Project: Bring Americans Home" for their exemplary efforts to secure the freedom of unjustly detained American servicemen; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Chairperson of "Project: Bring Americans Home."

RESOLUTION CHAPTER 28

Assembly Concurrent Resolution No. 113—Relative to Holocaust Memorial Week.

[Filed with Secretary of State April 10, 1984.]

WHEREAS, The Holocaust was a tragedy of proportions the world had never before witnessed; and

WHEREAS, The human race must remember the Holocaust's horrors so it can never happen again; and

WHEREAS, The United States Holocaust Memorial Council has designated the week of April 29 through May 6, 1984, as Holocaust Memorial Week—Days of Remembrance for Victims of the Holocaust; and

WHEREAS, April 29, 1984, is Yom HaSho'ah, and it has been designated internationally as a day of remembrance for victims of the Holocaust; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That the week of April 29 through May 6, 1984, is proclaimed as Holocaust Memorial Week in California, and that Californians are urged to appropriately observe these Days of Remembrance for Victims of the Holocaust; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor, the Simon Wiesenthal Center, and the Martyr's Memorial Museum.

RESOLUTION CHAPTER 29

Assembly Concurrent Resolution No. 114—Relative to Child Abuse Prevention Month.

[Filed with Secretary of State April 10, 1984.]

WHEREAS, The problem of child abuse is rapidly growing both in size and severity; and

WHEREAS, More than 100,000 children were seriously abused in California last year; and

WHEREAS, Children are a precious resource of this state; and

WHEREAS, Persons abused as children are prone to developmental and educational disabilities and more likely to commit violent crimes as adults; and

WHEREAS, Child abuse and neglect prevention and intervention programs help protect children, stabilize families, and contribute to a reduction in crime; and

WHEREAS, Effective child abuse prevention programs can save lives, avoid physical and emotional suffering, and save dollars; and

WHEREAS, The California Legislature is deeply concerned about the plight of the victims of child abuse in the state, and is taking an active role in combating child abuse, now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the month of April 1984 shall be designated Child Abuse Prevention Month in the State of California.

RESOLUTION CHAPTER 30

Assembly Concurrent Resolution No. 123—Relative to Asbestos Awareness Week.

[Filed with Secretary of State April 26, 1984.]

WHEREAS, Federal officials and medical authorities have warned that inhalation of asbestos poses a serious threat of cancer and other diseases. Because it takes 15 to 40 years for symptoms to appear, children are the most seriously affected; and

WHEREAS, Each year millions of American children are exposed to asbestos in schools. The problem is most severe in schools constructed between 1945 and 1972 in the U.S. when friable (or "crumbly") asbestos material had been used freely for insulation and to control noise; and

WHEREAS, The Environmental Protection Agency has recognized part of the problem by issuing new regulations requiring local school boards to identify all asbestos-based materials in their facilities, and to notify both staff and parents of the presence of this material, if any is found, so that they may take appropriate

preventative or remedial action, or both; and

WHEREAS, It is estimated that removal of asbestos will cost an average of one hundred thousand dollars ($100,000) per school building; and

WHEREAS, The cost of asbestos abatement programs is one of the main reasons for noncompliance. Most school districts are already facing budget cutbacks made worse by rejected bond issues; and

WHEREAS, It is important that public attention be drawn to these crucial problems, to obtain public support to investigate and provide the necessary funds to remove asbestos in the schools; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California declares the week of May 21, 1984, "Asbestos in the Schools Awareness Week"; and be it further

Resolved, That the State Department of Education take all of the following actions:

(1) Conduct a broad public education campaign focusing on the dangers of asbestos contamination in the schools to children and school employees and transmit information by all means available including news media and direct communication to school districts, employee groups, and parent and community organizations.

(2) Submit a report to the Legislature by January 1, 1985, on the state of compliance in California with EPA regulations which require local school boards to identify all asbestos-based materials in their facilities and to notify parents regarding findings and remedial actions.

(3) Submit a report to the Legislature by January 1, 1985, on methods taken to verify compliance with EPA regulations by local school boards.

(4) Submit a report to the Legislature by January 1, 1985, on the projected cost of inspection and cleanup and the capacity of California schools to absorb this cost; and be it further

Resolved, That the Members of the Legislature request the State Department of Health Services to cooperate fully with the State Department of Education in assuring the success of "Asbestos in the Schools Awareness Week"; and be it further

Resolved, That the Members of the Legislature call upon the Governor to use the power of his office to alert the citizens of California about the danger of asbestos in the schools of this state.

RESOLUTION CHAPTER 31

Senate Concurrent Resolution No. 33—Relative to health care.

[Filed with Secretary of State April 27, 1984.]

WHEREAS, Section 504 of the Federal Rehabilitation Act of 1973, and Section 4502 of the Welfare and Institutions Code, prohibit discrimination against persons based upon disability; and

WHEREAS, Recent public attention has been called to cases involving infants who have been denied sustenance or treatment because of the existence of severe disabling conditions, and to cases involving the withholding of sustenance or treatment to persons with serious life-threatening illnesses; and

WHEREAS, Technological advances in neonatology and geriatrics over the last few decades have made it possible to sustain the lives of infants with severe medical problems, and of other persons with serious life-threatening illnesses and diseases; and

WHEREAS, Representatives of medical, legal, ethical, and public groups have at times expressed differing opinions about the extent to which society can and should commit resources to the provision of medical treatment to all persons under all circumstances; and

WHEREAS, There are as yet no established criteria or common definitions for the appropriate or customary medical care of severely handicapped newborns or of terminally ill persons, nor for standards to address the complex ethical, medical, and legal issues involved in decisions regarding the continuation of life-sustaining treatment; and

WHEREAS, What constitutes appropriate and customary medical care and treatment may vary from patient to patient, depending on the perspective of family members, the public, and representatives of medical, legal, and ethical communities in a given circumstance; and

WHEREAS, The President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research has acknowledged the need for a representative framework to address complex decisions about life-sustaining treatment in order to facilitate the communication of appropriate information to all those persons involved in the decision, a better understanding by professionals and family members about the bases of decisions about life-sustaining treatment, and actions that reflect the informed approval of parents or guardians; and

WHEREAS, The federal Department of Health and Human Services has issued final rules and regulations that support the findings of the President's Commission, by encouraging health care providers that receive federal funds to establish infant care review committees, comprised of a broad range of perspectives, to assist health care providers in the development of standards, policies, and procedures for providing treatment to handicapped infants and in making decisions concerning medically beneficial treatment in specific cases; and

WHEREAS, A statement of "Principles of Treatment of Disabled Infants," developed by a coalition of major medical and disability

organizations, including the American Academy of Pediatrics, National Association of Children's Hospitals and Related Institutions, Association for Retarded Citizens, Down's Syndrome Congress, and Spina Bifida Association, states, in part:

"When medical care is clearly beneficial, it should always be provided. When appropriate medical care is not available arrangements should be made to transfer the infant to an appropriate medical facility. Consideration such as anticipated or actual limited potential of an individual and present or future lack of available community resources are irrelevant and must not determine the decisions concerning medical care. The individual's medical condition should be the sole focus of the decision. These are very strict standards.

"It is ethically and legally justified to withhold medical or surgical procedures which are clearly futile and will only prolong the act of dying. However, supportive care should be provided, including sustenance as medically indicated and relief of pain and suffering. The needs of the dying person should be respected. The family also should be supported in its grieving.

"In cases where it is uncertain whether medical treatment will be beneficial, a person's disability must not be the basis for a decision to withhold treatment. At all times during the process when decisions are being made about the benefit or futility of medical treatment, the person should be cared for in the medically most appropriate ways. When doubt exists at any time about whether to treat, a presumption always should be in favor of treatment."; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature commends the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research for its sensitivity and forethought in recommending a local review process to address treatment issues, and the federal Department of Health and Human Services for including the statement of "Principles of Treatment of Disabled Infants" in its January 12 Final Rules and Regulations pertaining to Procedures and Guidelines Relating to Health Care for Handicapped Infants; and be it further

Resolved, That the Legislature acknowledges the immense complexity of the legal, ethical, and medical issues involved in decisions affecting life-sustaining treatment; and be it further

Resolved, That the Legislature supports and encourages the formation of local review processes, including bioethical committees comprised of persons representing the patient, the legal, medical, and ethical communities, and the public, within professional health care associations and health care facilities to develop explicit written policies about decisionmaking procedures and internal hospital review of individual cases of patients with severe birth defects or life-threatening illness or disease, and to inform the patient, and the patient's family or representative, about existing resources for

services for severely disabled infants or patients with serious life-threatening diseases or who are in irreversible comas; and be it further

Resolved, That the Legislature encourages social policy research institutions and social scientists to evaluate the effectiveness of these local review processes in a manner that protects the confidentiality of patients and families or guardians in order to assess their efficiency and efficacy, and to refine the definition of the circumstances in which local review may be appropriate; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, the California Medical Association, the California Hospital Association, the California Nurses Association, District IX of the American College of Obstetricians and Gynecologists, the California Association of Obstetricians and Gynecologists, the Osteopathic Physicians and Surgeons of California, the State Bar Association, and the American Academy of Pediatrics.

RESOLUTION CHAPTER 32

Assembly Concurrent Resolution No. 147—Relative to California Small Business Week.

[Filed with Secretary of State April 30, 1984.]

WHEREAS, The President of the United States, by proclamation, has designated the week of May 6 to May 12, 1984, as "Small Business Week," in special tribute to the outstanding contributions of small businessmen and businesswomen of this nation, under the official theme "Small Business Means Jobs"; and

WHEREAS, Two million of the nation's 14 million small businesses are in California, employing some 10 million persons; and

WHEREAS, More than two-thirds of new workers are first employed by small businesses; as a result, small business bears a major responsibility for training the work force; and

WHEREAS, Small businesses provide California with its competitive edge in the area of technological innovation, being two and one-half times more innovative than large firms; and

WHEREAS, The spirit of entrepreneurship, fostered by small business, is experiencing a national rebirth, with over one-half million new businesses started last year; and

WHEREAS, Small businesses provide an avenue of opportunity for women and minorities, as evidenced by the women and minorities who are turning to small business and self-employment for their livelihood; and

WHEREAS, The entrepreneurship and productivity of small

businessmen and businesswomen constitute the vital core of America's free enterprise system; and

WHEREAS, The economic health of California depends in large measure on the prospects of the state's small businesses; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Governor is hereby requested to proclaim, in conjunction with the national designation thereof, the week of May 6, 1984, to May 12, 1984, inclusive, as California Small Business Week, in special recognition of the contributions which small businessmen and businesswomen have made, and will continue to make, to our state; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor.

RESOLUTION CHAPTER 33

Assembly Concurrent Resolution No. 101—Relative to Older Americans Month.

[Filed with Secretary of State May 3, 1984.]

WHEREAS, There are 3.5 million persons 60 years of age or older in California; and

WHEREAS, In our youth-conscious society, there is often a negative attitude towards aging which results in the general stereotyping of older persons as a lonely, inert, and hopeless group of citizens; and

WHEREAS, This unwholesome myth is continuously destroyed by the challenging and successful activities of older persons in all aspects of life; and

WHEREAS, Older persons are vibrant and alive and want, above all else, to continue making their contribution to our society for a long time to come; and

WHEREAS, Older persons are capable of and want to maintain a role in the political, economic, and community process, not because they are special, but because they share the universal desire to be active and respected members of the human race; and

WHEREAS, It is to the benefit of all members of our society, individually and as a group, to recognize these basic facts and to adopt a more positive attitude towards aging; and

WHEREAS, The President of the United States has proclaimed that, in accordance with a tradition dating back to 1963, May 1984 shall be designated as Older Americans Month; and

WHEREAS, The President has further proclaimed: "As a nation, we are aging together. Opportunities and support we can provide to older Americans today will benefit all of us tomorrow"; and

WHEREAS, Our senior citizens are one of our most important yet virtually untapped natural resources; and

WHEREAS, The President has urged all Americans to join in this call for intergenerational action that will make more meaningful the lives and potential of older Americans and our society as a whole; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby designates May 1984 as Older Americans Month in honor of older Americans; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, the Governor, the California Commission on Aging, the California Senior Legislature, the Director of the Department of Aging, the Triple-A Council of California, the California Association of Area Agencies on Aging, the Congress of California Seniors, the National Retired Teachers Association, the American Association of Retired Persons, the state and national Gray Panthers organizations, the National Association of Retired Federal Employees, the Older Americans Legislative Council, the Older Women's League, the Association of National pro Personas Majores, the California Institute of Senior Centers, the County Supervisors Association of California, the League of California Cities, the California Medical Association, the California Society of Internal Medicine, and the Department of Education.

RESOLUTION CHAPTER 34

Assembly Concurrent Resolution No. 139—Relative to Michael Jackson.

[Filed with Secretary of State May 3, 1984]

WHEREAS, The 20-year career of Michael Jackson has been compared by many to the careers of superstars Frank Sinatra, Elvis Presley, or the Beatles; and

WHEREAS, Michael Jackson, with his brothers the Jackson Five Band, have brought generations of Americans hours of enjoyment through "Top of the Chart" recordings such as "ABC," "I'll Be There," "Never Can Say Good-bye," "Dancing Machine," and "Ben"; and

WHEREAS, His talents as an entertainer were recognized by the entertainment industry by his nomination for and receipt of seven 1983 American Music Awards, including top male vocalist, top rock album, top pop album, and top music video; and

WHEREAS, Michael's recent album, "Thriller," which topped the music charts for most of 1983, and generated the smash hit singles

"Beat It," "Billie Jean," and "Thriller," is rapidly becoming the largest selling record in the history of pop music, with sales currently over 32 million copies worldwide; and

WHEREAS, The combined talents exhibited in his latest album earned him a record breaking 12 Grammy Award nominations, and Michael won the coveted award eight times in the following categories:

Record of the Year ("Beat It"); Album of the Year ("Thriller"); Producer of the Year (nonclassical) ("Thriller"—along with Quincy Jones); Best Male Pop Vocal ("Thriller"); Best Male Rock Vocal ("Beat It"); Best Male R&B Vocal ("Billie Jean"); New R&B Song of the Year ("Billie Jean"); and Best Recording for Children ("E.T. the Extra-Terrestrial"); and

WHEREAS, Michael's unique taste in fashion and personal style has made a dramatic impact on our state's fashion markets; and

WHEREAS, Entertainers such as Diana Ross, Katharine Hepburn, Paul McCartney, and Jane Fonda, publications like the Rolling Stone, People, and Time Magazines, the Guiness Book of Records, and officials, including the President of the United States, have saluted Michael's contributions to both music and society; and

WHEREAS, Michael's actions, beliefs, and life style have demonstrated his unique dedication to excellence and he serves as a role-model to his legion of fans throughout California, the United States, and the world; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members recognize the outstanding contributions Michael Jackson has made to the expansion of the music and entertainment industries and the promotion of the State of California in the worldwide community, his actions in behalf of humanitarian causes, and his unique blend of personal charm and style that have touched the lives and souls of his multitude of listeners, and convey sincere best wishes for continued success in the future; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to Michael Jackson.

RESOLUTION CHAPTER 35

Assembly Concurrent Resolution No. 148—Relative to the National Day of Prayer.

[Filed with Secretary of State May 3, 1984.]

WHEREAS, Deep religious beliefs inspired many of the early settlers of our country, providing them with the strength, character, convictions, and faith necessary to withstand great hardship and danger in this new and rugged land; and

WHEREAS, These shared beliefs helped forge a sense of common purpose among the widely dispersed colonies—a sense of community which laid the foundation for the spirit of nationhood that was to develop in later decades; and

WHEREAS, Whether at the landing of our forebears in New England and Virginia, the ordeal of the Revolutionary War, the stormy days of binding the 13 colonies into one country, the Civil War, or other moments of trial over the years, we have turned to God in prayer for His help; and

WHEREAS, As we crossed and settled a continent, built a Nation in freedom, and endured war and critical struggles to become the leader of the Free World and a sentinel of liberty, we repeatedly turned to our Maker for strength and guidance in achieving the awesome tasks before us; and

WHEREAS, The attitudes we have as people united together, caring for each other, committed to freedom, holding high the dignity of each person, we practice through prayer that which we derived from our religious heritage; and

WHEREAS, Since April 17, 1952, the recognition of a particular day each year as a National Day of Prayer has become part of the traditions we have as a people and is a day on which we are invited to turn to God in prayer and meditation in places of worship, in groups, and as individuals; and

WHEREAS, Ronald Reagan, President of the United States of America, has proclaimed Thursday, May 3, 1984, as "National Day of Prayer"; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby recognizes Thursday, May 3, 1984, as "National Day of Prayer" and calls upon the people of California, each according to his or her faith, to gather together on that day in homes and places of worship to pray for unity of the hearts of all mankind; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 36

Assembly Joint Resolution No. 94—Relative to the 1984 Summer Olympic Games.

[Filed with Secretary of State May 3, 1984]

WHEREAS, On June 23, 1894, the International Olympic Committee was established by Baron Pierre de Coubertin to encourage the organization and development of sport and international sports competition; and

WHEREAS, The Olympic spirit has continued since then to promote and strengthen friendship among sportsmen and women of all nations; and

WHEREAS, It remains the aim of the international Olympic community to ensure the regular celebration of the Games, and to make the Games ever more worthy of their proud history and high ideals; and

WHEREAS, In these times of increased international tensions, we need, more than ever, the spirit of Olympic friendship and people-to-people diplomacy; and

WHEREAS, The International Olympic Committee owns the rights over the Olympic Games, and the Games belong to the world; and

WHEREAS, The Los Angeles Olympic Organizing Committee (LAOOC) has been chartered to hold the 1984 Summer Olympic Games in Los Angeles by the International Olympic Committee, under the stipulation that the LAOOC will comply with Olympic rules and procedures; and

WHEREAS, President Reagan has given assurances to the Olympic family of the commitment of the United States to enforcing the Olympic Charter; and

WHEREAS, 154 nations have been invited to attend the Games of the XXIIIrd Olympiad in Los Angeles; and

WHEREAS, Political leaders and legislators at all levels of government in California can aid the Olympic movement by extending a welcome to all athletes, spectators, and officials from around the world; and

WHEREAS, This action by political leaders and legislators is in the true spirit of the Olympics, and it would indicate a commitment to the 1984 Summer Olympic Games as a celebration of sport and an effort to unite the youth of the world in peace; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California welcomes all nations to participate in the 1984 Summer Olympic Games; and be it further

Resolved, That the Legislature urges the people of California to be gracious hosts to all athletes, spectators, and officials from every nation which chooses to participate; and be it further

Resolved, That the Legislature urges the President and Congress of the United States to reaffirm our nation's commitment to welcome all invited nations to this country so that they may participate in the 1984 Summer Olympic Games and to extend a welcome mat to citizens of all nations who wish to come to the Games; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Los Angeles Olympic Organizing Committee.

RESOLUTION CHAPTER 37

Senate Concurrent Resolution No. 76—Relative to Smokey Bear.

[Filed with Secretary of State May 14, 1984]

WHEREAS, Smokey Bear, the national wildfire prevention symbol, is recognized by the general public for his efforts to create an awareness among Californians as to the importance of preventing unwanted fires; and

WHEREAS, 1984 marks the 40th year of Smokey's campaign for public support of fire prevention programs, and it is recognized as his official 40th birthday; and

WHEREAS, He has consistently demonstrated his appeal and effectiveness in the campaign against the carelessness and malice which cause fires; and

WHEREAS, His efforts have resulted in the conservation of California's wildland resources to the betterment of the environment and the enjoyment of future generations of Californians; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Members convey Happy 40th Birthday wishes to Smokey Bear and commend his efforts to create public support for the prevention of wildfires in California; and be it further

Resolved, That the Members proclaim the week of May 13 through 19, 1984, as Smokey Bear Week, and urge their fellow Californians to participate in the week's activities and events; and be it further

Resolved, That a suitably prepared copy of this resolution be transmitted to the California State Department of Forestry.

RESOLUTION CHAPTER 38

Assembly Concurrent Resolution No. 153—Relative to commending the National Association for the Advancement of Colored People (NAACP) on its 75th Anniversary.

[Filed with Secretary of State May 14, 1984.]

WHEREAS, The United States of America was founded on the principles of equality and justice for all people; and

WHEREAS, The NAACP, our nation's largest and oldest civil rights organization, is dedicated to the realization of the principles on which our republic was founded; and

WHEREAS, For 75 years, the NAACP has sustained its commitment to end racial discrimination in every aspect of American life; and

WHEREAS, More than any other nongovernmental agency, the NAACP has been responsible for the progress made by Black

Americans and other minority groups in this century; and

WHEREAS, The NAACP played a leading role in the process of litigation which led to the historic decision of the United States Supreme Court in Brown v. Board of Education on May 17, 1954, and eventually overturned the pernicious practice of legal segregation in this country; and

WHEREAS, The NAACP works unremittingly for the achievement of those conditions of life, citizenship, and human well-being guaranteed in the Constitution by our nation's founding fathers and mothers; and

WHEREAS, Although great strides forward have been made during the past 75 years, the goal of ending racial discrimination has yet to be achieved for too many Americans; and

WHEREAS, February 12, 1984, marked the 75th Anniversary of the founding of the NAACP, and the organization has designated 1984 as its Diamond Jubilee Year; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature congratulates the NAACP on the occasion of its Diamond Jubilee Year, and commends the NAACP for its 75 years of civil rights leadership; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the NAACP.

RESOLUTION CHAPTER 39

Assembly Joint Resolution No. 64—Relative to federal-aid highway projects.

[Filed with Secretary of State May 22, 1984.]

WHEREAS, The Surface Transportation Assistance Act of 1982 (P.L. 97-424) substantially increased the amount of revenues for the construction and rehabilitation of California's federal-aid highway systems; and

WHEREAS, The citizens of California and the state's economy would substantially benefit from the expeditious development of newly funded highway construction projects; and

WHEREAS, The National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) (NEPA) and the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) (CEQA) require that the environmental implications of major highway construction projects be identified and mitigation measures be developed where appropriate; and

WHEREAS, The Commission on California State Government Organization and Economy and the Auditor General have found that the federal environmental review of federal-aid highway projects is lengthy and the federal review will, on the average, require four

months for the Federal Highway Administration (FHWA) to grant approval, and considerably longer on more complex projects; and

WHEREAS, The Commission on California State Government Organization and Economy has found that there is substantial similarity between NEPA and CEQA; and

WHEREAS, Substantial savings could be achieved if the review of environmental documentation for highway projects would not also require the approval of the FHWA; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature respectfully memorializes the President and the Congress of the United States to enact legislation, in the interest of efficiency and economy, which would authorize California to certify to the Federal Highway Administration that a federal-aid highway project conforms to the National Environmental Policy Act of 1969 so as to relieve the federal agency of the need to so certify; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 40

Senate Concurrent Resolution No. 71—Relative to the Joint Legislative Budget Committee.

[Filed with Secretary of State May 25, 1984]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That in addition to any money heretofore made available to it, the sum of four million eight hundred thirty thousand dollars ($4,830,000), or so much thereof as may be necessary, is hereby allocated from the Contingent Funds of the Assembly and Senate for the payment of any and all expenses incurred by the Joint Legislative Budget Committee or its members pursuant to and under the authority of law or the provisions of Joint Rule 37. None of the additional funds shall be allocated prior to July 1, 1984, or the enactment of the budget bill, whichever is later.

RESOLUTION CHAPTER 41

Senate Joint Resolution No. 53—Relative to the Olympic Games.

[Filed with Secretary of State May 25, 1984.]

WHEREAS, The Olympic Games originated in Olympia, Greece, in 776 B.C., and continued, almost without interruption, until the year 394 A.D., when they were terminated by Theodosius, Emperor of the Eastern Roman Empire, who considered them a holdover from pagan rituals; and

WHEREAS, During the course of these more than 11 centuries, the Olympic Games were considered so sacred that wars were interrupted so that the warrior athletes could journey to Olympia to participate in the Games; and

WHEREAS, One of the principal purposes of the Games was to promote peace and harmony among all the Greek (and later Roman) city-states; and the rule was that, in order to participate, the nations had to lay down their arms; and

WHEREAS, Unfortunate differences, which are clouding and jeopardizing the Games, have arisen among nations during the last several Olympiads; and

WHEREAS, The modern revival of the Olympic Games began in 1896 in Athens, Greece, and President Constantine Caramanlis of Greece has formally proposed that the International Olympic Committee return the Summer Games to Olympia, Greece, the original site, as a permanent place for the Games; and

WHEREAS, Greece has again offered to make all arrangements and accommodations for athletes, journalists, and tourists, and thereby to provide a neutral site; and

WHEREAS, The Greek Olympic Committee has also proposed the development of both a neutral airport and seaport to serve the Olympic Games site; and

WHEREAS, Such a move would help to neutralize the Games and make them less susceptible to political pressures and international political rivalry, and is more likely to revive the original Olympic spirit of peace and harmony among nations; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the International Olympic Committee and the United States Olympic Committee to give favorable consideration to the proposal of President Caramanlis to move the Summer Olympics permanently to Olympia, Greece, commencing with the Summer Olympics of 1992; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the International Olympic Committee, the United States Olympic Committee, President Constantine Caramanlis, and President Ronald Reagan.

RESOLUTION CHAPTER 42

Assembly Concurrent Resolution No. 102—Relative to the California Law Revision Commission.

[Filed with Secretary of State May 29, 1984.]

WHEREAS, The California Law Revision Commission is authorized to study only topics set forth in the calendar contained in its report to the Legislature which are thereafter approved for study by concurrent resolution of the Legislature, and topics which have been referred to the commission for study by concurrent resolution of the Legislature; and

WHEREAS, The commission, in its annual report covering its activities for 1983, lists 22 topics, all of which the Legislature has previously authorized or directed the commission to study, as studies in progress; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature approves for continued study by the California Law Revision Commission the topics listed below, all of which the Legislature has previously authorized or directed the commission to study:

TOPICS UNDER ACTIVE CONSIDERATION

(1) Whether the law relating to creditors' remedies (including, but not limited to, attachment, garnishment, execution, repossession of property (including the claim and delivery statute, self-help repossession of property, and the Commercial Code repossession of property provisions), civil arrest, confession of judgment procedures, default judgment procedures, enforcement of judgments, the right of redemption, procedures under private power of sale in a trust deed or mortgage, possessory and nonpossessory liens, and related matters) should be revised;

(2) Whether the California Probate Code should be revised, including but not limited to whether California should adopt, in whole or in part, the Uniform Probate Code;

(3) Whether the law relating to real and personal property (including, but not limited to, a Marketable Title Act, covenants, servitudes, conditions, and restrictions on land use or relating to land, possibilities of reverter, powers of termination, Section 1464 of the Civil Code, escheat of property and the disposition of unclaimed or abandoned property, eminent domain, quiet title actions, abandonment or vacation of public streets and highways, partition, rights and duties attendant upon termination or abandonment of a lease, powers of appointment, and related matters) should be revised;

(4) Whether the law relating to family law (including, but not limited to, community property) should be revised;

(5) Whether the law relating to involuntary dismissal for lack of prosecution should be revised;

(6) Whether the law relating to statutes of limitations applicable to felonies should be revised;

(7) Whether the law relating to the rights and disabilities of minors and incompetent persons should be revised;

OTHER TOPICS AUTHORIZED FOR STUDY

(1) Whether the law relating to the award of prejudgment interest in civil actions and related matters should be revised;

(2) Whether the law relating to class actions should be revised;

(3) Whether the law relating to offers of compromise should be revised;

(4) Whether the law relating to discovery in civil cases should be revised;

(5) Whether a summary procedure should be provided by which property owners can remove doubtful or invalid liens from their property, including a provision for payment of attorneys fees to the prevailing party;

(6) Whether acts governing special assessments for public improvements should be simplified and unified;

TOPICS CONTINUED ON CALENDAR FOR FURTHER STUDY

(1) Whether the law relating to custody of children, adoption, guardianship, freedom from parental custody and control, and related matters should be revised;

(2) Whether the Evidence Code should be revised;

(3) Whether the law relating to arbitration should be revised;

(4) Whether the law relating to modification of contracts should be revised;

(5) Whether the law relating to sovereign or governmental immunity in California should be revised;

(6) Whether the decisional, statutory, and constitutional rules governing the liability of public entities for inverse condemnation should be revised (including, but not limited to, liability for damages resulting from flood control projects) and whether the law relating to the liability of private persons under similar circumstances should be revised;

(7) Whether the law relating to liquidated damages in contracts generally, and particularly in leases, should be revised;

(8) Whether the parol evidence rule should be revised;

(9) Whether the law relating to pleadings in civil actions and proceedings should be revised; and be it further

Resolved, That the California Law Revision Commission shall study the topic of whether the law on injunctions and related matters should be revised; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the California Law Revision Commission.

RESOLUTION CHAPTER 43

Assembly Concurrent Resolution No. 140—Relative to proclaiming 1984 the "California Year of Tourism."

[Filed with Secretary of State May 29, 1984]

WHEREAS, The Olympics, the Superbowl, the All-Star Baseball Game, and the Democratic Presidential Convention, all of which will be held in California within the next 12 months, will bring unprecedented world attention to the state; and

WHEREAS, California's tourism industry is the largest in the nation, employing over 500,000 people with an annual payroll of 5.5 billion dollars and producing over 27 billion dollars in annual expenditures; and

WHEREAS, Government depends heavily on the travel and hospitality industry, which in 1981 generated over 927 million dollars in state tax collections and 415 million dollars in local government tax revenue; and

WHEREAS, The visitor industry is mostly comprised of small businesses and provides exceptional opportunities for independent and family owned enterprises; and

WHEREAS, Internal promotion and on-the-job training in the travel and hospitality industry provides numerous avenues for advancement to socially disadvantaged people; and

WHEREAS, Tourism, in addition to generating economic benefits to California, promotes international understanding and good will, making it truly the "hospitality" industry; and

WHEREAS, Competition between states for travel and visitor expenditures has increased dramatically in recent years, causing California's share of the national market to decrease almost 1 percent; and

WHEREAS, Several states have launched multimillion dollar advertising campaigns to attract visitors, with several states spending close to 10 million dollars per year, while California spends only 500 thousand dollars ranking it 47th in the nation; and

WHEREAS, The time has come to recognize the importance of tourism to California's economic and social well-being; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby proclaims 1984 as the "California Year of Tourism"; and be it further

Resolved, That 1984 shall see the Legislature, the administration, and the tourism industry work together to develop a meaningful

state tourism promotion and visitor servicing policy to maintain and enhance the attractiveness of California beyond the 1984 Olympics, the Superbowl, the All-Star Baseball Game and the Democratic Presidential Convention; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor, the Office of Tourism, and the major hospitality industry associations.

RESOLUTION CHAPTER 44

Senate Concurrent Resolution No. 79—Relating to Juan Corona.

[Filed with Secretary of State June 1, 1984.]

WHEREAS, The California Board of Prison Terms has granted a Life Prisoner Initial Parole Consideration Hearing for the week of June 13, 1984, to Juan Vallejo Corona; and

WHEREAS, Juan Corona was convicted of the grisly murders of 25 human beings in the year prior to May 1971; the victims were all migrant farmworkers or transients; all the murders occurred in Sutter County; and the victims were variously shot or stabbed, their bodies disposed of in shallow graves; and

WHEREAS, Juan Corona received two trials, and at the conclusion of the first trial, which lasted from September 1972 to March 1973, he was sentenced to 25 concurrent life terms; however, the death sentence was not in effect at that time in California; and

WHEREAS, During the second trial held during the period of January to December 1982, Corona was again convicted and sentenced to 25 concurrent life terms; and

WHEREAS, According to Sutter County officials, Corona failed to show any remorse or any emotion other than dispassionate coldness during the trials; and

WHEREAS, The trials cost California taxpayers approximately $5.5 million; and experts on this individual have stated that he will remain to be a deadly threat to public safety if released from prison; and

WHEREAS, This convicted mass murderer should not be paroled back into an innocent society in order that we may preserve public safety and peace of mind and so that we may not cheapen the reputation and integrity of our criminal justice system; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Board of Prison Terms is urged to deny parole consideration to Juan Corona.

RESOLUTION CHAPTER 45

Senate Concurrent Resolution No. 32—Relative to exit sign locations.

[Filed with Secretary of State June 1, 1984]

WHEREAS, Fires often result in deaths of persons on upper floors; and

WHEREAS, Exit signs are usually placed over the exit entrance or near the ceiling; and

WHEREAS, Smoke builds up more rapidly at higher levels which may obscure the visibility of the exit signs; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the State Fire Marshal is requested to conduct a study of the feasibility of adding a distinctive device or sign which locates exits that could be felt or seen at a lower level near the floor in the event of fire; and be it further

Resolved, That the study is to be conducted upon the availability of a specific appropriation in support of the study, and no more than two thousand five hundred dollars ($2,500) is to be spent for this purpose; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the State Fire Marshal.

RESOLUTION CHAPTER 46

Senate Concurrent Resolution No. 74—Relative to transportation.

[Filed with Secretary of State June 5, 1984.]

WHEREAS, The Metropolitan Transportation Commission is the transportation planning agency responsible for the planning of transportation services for the nine San Francisco Bay area counties, including the Counties of Santa Clara, San Mateo, and the City and County of San Francisco; and

WHEREAS, Travel demand in the peninsula transportation corridor between San Jose and San Francisco at this time exceeds capacity, and that travel demand is expected to continue to grow; and

WHEREAS, The streets and highways in this corridor are congested, and major highway expansion alternatives are not physically and economically feasible; and

WHEREAS, The peninsula rail commute service operated by the Department of Transportation is a commuter service with limited service capacity and terminal locations that do not meet the user's needs; and

WHEREAS, A comprehensive and complete mass transit plan for

the corridor is not available to guide future transit improvements for the San Jose-San Francisco corridor; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Metropolitan Transportation Commission, in cooperation with the Department of Transportation and the transit operators and local governments in the corridor, is hereby requested to develop a mass transit system plan and an incremental improvement plan for the transportation corridor between the Cities of San Jose and San Francisco; and be it further

Resolved, That the mass transit system plan include a rail transit system between a rail transit station in the City of San Jose and rail transit station in the City of San Francisco and identify the route, the vehicle type, the operational characteristics, and an institutional and financial arrangement for implementing the plan; and be it further

Resolved, That, in preparing the plan, the commission should, at a minimum, consider the following alternatives:

(1) Extension of the San Francisco Bay Area Rapid Transit District (BART) service from Daly City to the San Francisco International Airport and south to San Jose.

(2) Extension of BART service from Daly City to the airport and establishment of a light rail transit system from the airport to San Jose.

(3) Upgrading the existing Department of Transportation service with the possibility of a light rail transit system between San Francisco and San Jose, utilizing the Southern Pacific Transportation Company corridor, with extensions to connect with the Guadalupe light rail line in San Jose and the San Francisco Municipal Railway or BART in San Francisco; and be it further

Resolved, That the incremental improvement plan identify cost-effective staged improvements that are financially feasible and that would lead to the ultimate implementation of the mass transit system plan; and be it further

Resolved, That the Department of Transportation, the transit operators and local governments, cooperate with the commission in the development of these plans and plan their future improvements to be consistent with the system plan and the implementation plan; and be it further

Resolved, That the commission is requested to submit its mass transit system plan and the incremental improvement plan, along with recommendations for institutional and financial arrangements, to the Legislature no later than March 1, 1985; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Metropolitan Transportation Commission, the Department of Transportation, the San Francisco Bay Area Rapid Transit District, the San Francisco Public Utilities Commission, the San Mateo County Transit District, and the Santa Clara County Transit District.

RESOLUTION CHAPTER 47

Assembly Concurrent Resolution No. 82—Relative to log home construction.

[Filed with Secretary of State June 12, 1984.]

WHEREAS, California is in the middle of a serious housing slump which has negatively and deeply affected the building trades, the real estate industry and, most importantly, the prospective home buyer; and

WHEREAS, This housing slump is additionally having a ripple effect on other essential segments of California's economy, such as the timber industry, causing the loss of hundreds of jobs; and

WHEREAS, First-time home buyers have been essentially priced out of the mainstream housing market; and

WHEREAS, There is a growing need for new affordable housing; and

WHEREAS, Rising utility costs have impacted most severely upon rural residents, whose heating costs for all-electric homes have been as high as $400 or more per month; and

WHEREAS, Timber is one of California's most abundant and important resources and is utilized extensively in the construction of homes; and

WHEREAS, Log homes are an aesthetically pleasing, low-cost form of housing that can be built to satisfy diverse personal tastes and to fit in naturally with the surrounding landscape; and

WHEREAS, Log homes are extremely energy efficient, using, in some cases, up to 46 percent less heating energy and up to 24 percent less cooling energy than an insulated wood frame building identical to the log house except for its exterior walls, and maintained at the same temperature; and

WHEREAS, Log homes provide a low-cost, energy efficient alternative to other forms of home construction; and

WHEREAS, An increase in the level of log home construction would have a beneficial effect on new home buyers, second-home buyers, the construction trades, the real estate industry, and the timber industry; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California encourages local governments, both county and city, to remove any existing impediments to the construction of log homes, and, to the extent possible, provide information about the advantages of log home construction through their building departments to persons coming before those departments seeking information concerning home construction; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to all county boards of supervisors and city councils in the State of California.

RESOLUTION CHAPTER 48

Senate Concurrent Resolution No. 80—Relative to memorializing the Honorable Stanley Arnold.

[Filed with Secretary of State June 14, 1984.]

WHEREAS, It was with the most profound sorrow, and deep sense of loss that the Members received word of the passing of Stanley Arnold, a former Member of the Senate of the State of California, who was a distinguished and able public servant well respected by his colleagues; and

WHEREAS, Senator Arnold was born in Crown Point, Indiana in 1903, graduated from St. Joseph's College in Indiana, received his law degree from the University of California, Hastings College of Law in San Francisco, then moved to Susanville, in Lassen County in 1922; and

WHEREAS, Senator Arnold served as District Attorney of Lassen County from 1949 to 1955 where he was a member of the American Bar Association and the Lassen County Bar Association; and

WHEREAS, Senator Arnold married Almida Linquist and they had one son, Dawson Arnold; and

WHEREAS, Senator Arnold was elected to the Senate in 1955 at a special election, then reelected and represented the 1st District until 1965; and

WHEREAS, He was Chairman of the Senate Fact Finding Committee on Governmental Administration and a Member of the Joint Committee on Legislative Organization and the Senate Rules Committee; and

WHEREAS, He was particularly interested in matters pertaining to prison inmate participation in natural resources conservation programs and the revision and modernization of the Juvenile Court Law, and he sponsored legislation in these areas; and

WHEREAS, Despite the heavy demands of public duty in Sacramento, Senator Arnold never neglected his local responsibilities, including participation in Rotary, Elks, the American Legion, and the Knights of Columbus; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Members express their deepest sympathy at the passing of the Honorable Stanley Arnold, a former Member of the Senate of the State of California and, by this resolution, memorialize his illustrious record of responsible and dedicated service to the State of California; and be it further

Resolved, That a suitably prepared copy of this resolution be transmitted to Almida Arnold and Dawson Arnold.

RESOLUTION CHAPTER 49

Senate Concurrent Resolution No. 81—Relative to memorializing the Honorable Harold T. Sedgwick.

[Filed with Secretary of State June 14, 1984.]

WHEREAS, It was with the most profound sorrow and deep sense of loss that the Members received word of the passing of the Honorable Harold T. Sedgwick, a former Member of the Assembly and a former Member of the State Senate, who was a distinguished and able public servant well respected by his colleagues; and

WHEREAS, Senator Sedgwick was born in Lincoln, Nebraska, attended Nebraska public schools, and the University of Nebraska; and

WHEREAS, Senator Sedgwick married Bessie Sedgwick in 1920 and they established residence in Oroville in 1923; he and his wife had two daughters; prior to his service as a Member, he operated a group of retail shoe stores throughout Northern California; and

WHEREAS, Senator Sedgwick was first elected to the Assembly from the 4th District in a special election in 1955; he was reelected and served in the Assembly until 1962 when he was elected to the Senate representing the 10th District where he served until 1966; and

WHEREAS, He was a Member on the Standing and Interim Committees on Rules, Agriculture, Livestock and Dairies, Conservation, Planning and Public Works, Education, Governmental Efficiency and Economy, Fairs Allocations and Classifications, Social Welfare, and Water; and

WHEREAS, He chaired the Subcommittee on Higher Education Beyond Twelfth Grade; and

WHEREAS, Despite the heavy demands of public duty in Sacramento, Senator Sedgwick never neglected his local responsibilities, including participation in numerous local endeavors such as the American Legion, Rotary Club, Elks, Commonwealth Club, Eagles Lodge, Masonic Lodge, and Shrine; and

WHEREAS, He was also actively involved in local civic affairs and served as a member of the Elementary School Board for 16 years, a member of the Advisory Board of Chico State College for 12 years, and Mayor of Oroville for 8 years; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Members express their deepest sympathy at the passing of the Honorable Harold T. Sedgwick, a former Member of the Assembly and State Senate and, by this resolution, memoralize his illustrious record of responsible and dedicated service to the State of California; and be it further

Resolved, That a suitably prepared copy of this resolution be transmitted to his daughter, Maxine Armstrong.

RESOLUTION CHAPTER 50

Assembly Concurrent Resolution No. 109—Relative to highway use and financing.

[Filed with Secretary of State June 14, 1984.]

WHEREAS, A well-operated and maintained highway system is essential to the economy of the state, as well as to the ease of travel by the public; and

WHEREAS, The cost of construction, operation, and maintenance of a viable highway system is of increasing concern to all levels of government; and

WHEREAS, The issue of cost responsibility occasioned by the various users of the state highway system needs to be studied; and

WHEREAS, Alternative fees and financing methods for the various classes of highway users need to be studied to consider the question of equitable taxation; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation is hereby requested to conduct, under the direction of the Business, Transportation and Housing Agency, a highway cost allocation study which will include both of the following:

(a) The cost responsibility of autos, buses, and the various classes of trucks on use of state highways.

(b) In conjunction with the Business, Transportation and Housing Agency, an evaluation of potential financing alternatives which could meet the cost responsibilities as specified in subdivision (a), including an evaluation of the measures necessary to implement each of those alternatives along with a review of the economic impact upon consumers and the business and agricultural communities; and be it further

Resolved, That the agency submit to the Legislature a preliminary report which includes the findings under subdivisions (a) and (b) no later than January 1, 1985, and a final report which includes the findings under subdivisions (a) and (b) no later than April 1, 1985; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Secretary of the Business, Transportation and Housing Agency to the Director of Transportation.

RESOLUTION CHAPTER 51

Assembly Joint Resolution No. 98—Relative to computer education.

[Filed with Secretary of State June 14, 1984.]

WHEREAS, Computer education can play an integral role in revitalizing California education; and

WHEREAS, California's economic competitiveness is dependent upon our students receiving a quality education; and

WHEREAS, The ability to use computer related skills will be valuable in the future economy; and

WHEREAS, California schools are able to use modern technology, especially computers, to better educate our students; and

WHEREAS, Computers can be used by students in all disciplines and at all achievement levels; and

WHEREAS, Computers can be used not only for drill and practice and programming, but for word processing, quantitative analysis, data base analysis, and graphics; and

WHEREAS, The federal government is in the unique financial position of being able to provide substantial funding for computer education needs; and

WHEREAS, There is a demonstrated need to target computer education resources to disadvantaged, or Title 1, schoolchildren; and

WHEREAS, The California Legislature would like to express to the President and Congress the desire of the Legislature to encourage a federal and state partnership in the promotion of substantial, innovative, and accessible computer education; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California memorializes the President and Congress of the United States to support the efforts of United States Senator Frank Lautenberg to provide the framework for accessible and quality computer education; and be it further

Resolved, That legislation is commendable which targets funds to where the need is the greatest; and be it further

Resolved, That the Legislature supports legislation which provides federal seed funding to schools, and flexible guidelines for the use of those funds for planning, acquisition, and teacher training; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States, and to United States Senator Frank Lautenberg.

RESOLUTION CHAPTER 52

Assembly Joint Resolution No. 128—Relative to redesignating federal surplus property for the Corona-Norco Unified School District.

[Filed with Secretary of State June 14, 1984.]

WHEREAS, The United States General Services Administration has notified the Corona-Norco Unified School District through the United States Department of Education that certain land at the Naval Weapons Station, China Lake, Corona Annex, Norco, California has been declared surplus property and available for disposition; and

WHEREAS, Public schools in the State of California do not have an effective means of funding the acquisition and construction of public school facilities; and

WHEREAS, The existing educational facilities of the Corona-Norco Unified School District are at or near capacity; and

WHEREAS, The Corona-Norco Unified School District has on file tract maps for the construction of 19,287 new homes and is aware of local planning department expectations for massive additional individual construction; and

WHEREAS, The Corona-Norco Unified School District is interested in the acquisition of the area designated as Parcel A, 79.75 acres, to be used for public school facilities; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the United States General Services Administration to redesignate Parcel A of the Naval Weapons Center surplus property as a public benefit conveyance; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States and to the Administrator of General Services.

RESOLUTION CHAPTER 53

Assembly Joint Resolution No. 129—Relative to a redesignation of federal surplus property for the Riverside Community College District.

[Filed with Secretary of State June 14, 1984.]

WHEREAS, The Corona-Norco area will become a part of the Riverside Community College District beginning July 1, 1984; and

WHEREAS, The United States General Services Administration

has identified a portion of the Naval Weapons Station, China Lake, Corona Annex, also known as the Fleet Analysis Center, as surplus government property and available for disposal; and

WHEREAS, Corona, Norco, Mira Loma, Lake Matthews, and Temescal Canyon are areas experiencing great residential growth and are projected to be one of the fastest growing areas in the entire nation in the next decade; and

WHEREAS, The Riverside City College campus will be unable to accommodate the projected growth in the decades ahead; and

WHEREAS, Additional campuses will enable the Riverside Community College District to broaden its curricular offerings and thereby benefit more students; and

WHEREAS, Local residents use community college campuses for community services purposes and as cultural and recreational centers; and

WHEREAS, Other community college districts have obtained federal land for their campuses as a public benefit conveyance; and

WHEREAS, Large parcels of land suitable for community college campuses are becoming increasingly difficult to obtain; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the United States General Services Administration to redesignate parcel C-Z of the Naval Weapons Center surplus property as a public benefit conveyance; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States and to the Administrator of General Services.

RESOLUTION CHAPTER 54

Assembly Joint Resolution No. 68—Relative to a San Luis national cemetery.

[Filed with Secretary of State June 15, 1984.]

WHEREAS, The California Department Commanders Veterans Council unanimously agreed that a new national cemetery should be established by the United States near San Luis Dam near the City of Los Banos, California; and

WHEREAS, This proposal has been concurred with by the American Legion Department of California, the Council of Administration of the Veterans of Foreign Wars of the State of California, and the national and state bodies of the American G.I. Forum of the United States; and

WHEREAS, A public-spirited citizen is willing to donate, deed, and dedicate approximately 350 acres of land adjacent to the San Luis Reservoir for a national cemetery; and

WHEREAS, The San Luis site is adjacent to a California state park, assuring the site will not be overrun with commercial or residential development; is located in the center of the state, with major highways giving easy accessibility to the site; is in reasonable proximity to eight commercial airports; is located a reasonable distance to four military installations, and is readily accessible to California veterans, as well as more than two million veterans living in the 10 other western states; and

WHEREAS, The United States Department of the Interior, Bureau of Reclamation, has 2,000 acre-feet of water available for use by the national cemetery from the San Luis Dam, now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact legislation to establish a national cemetery near San Luis Dam near the City of Los Banos, California; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 55

Senate Joint Resolution No. 45—Relative to medical facilities for retired military personnel.

[Filed with Secretary of State June 18, 1984.]

WHEREAS, The State of California has the largest retired military community in the United States and includes among its population over 208,000 retired military personnel in addition to their dependent families; and

WHEREAS, These military retirees receive over 180 million dollars per month in retired military pay, amounting to 2 billion dollars annually, much of which goes for the daily living expenses of the retired military community and thus helps support the economy of the State of California; and

WHEREAS, It is believed that the contributions of the retired military community to the economy of California are beyond most people's realizations; and

WHEREAS, The health care of our retired military community should be of primary concern to the government of the United States because of the large outlay of existing federal funds through

CHAMPUS for private care of those who are under the age of 65 and their dependents and Medicare for those 65 or older who are no longer eligible for CHAMPUS; and

WHEREAS, With the passage by Congress of the Former Military Spouses Protection Act, additional health care costs will be incurred by the federal government and the military establishment through CHAMPUS and Medicare; and

WHEREAS, More than 63,000 retired military personnel and an estimated 100,000 military dependents in California are 65 years of age or over and eligible for Medicare; and

WHEREAS, The Department of Defense operates military on-base hospitals on the 109 military facilities in California which, through expansion, could accommodate those retired military personnel and dependents over 65 now using Medicare, the additional 145,000 retired personnel and dependents eligible for CHAMPUS, and the unknown numbers of eligible former military spouses; and

WHEREAS, The use of CHAMPUS and Medicare funds to expand on-base hospital facilities will result in employment for design, construction, and added military medical support personnel, all of which are greatly needed in the present state of the economy; and

WHEREAS, The use of present CHAMPUS and Medicare funds for on-base hospital expansion and employment will eventually produce a savings to the Department of Defense as well as satisfy the medical needs of the former military spouses; and

WHEREAS, These savings could be put to effective use to stimulate other areas of the economy; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to support and enact legislation recognizing the medical needs of retired military personnel and their families and of former military spouses by expanding medical facilities on defense installations to guarantee use by retired personnel who now rely on private care through CHAMPUS or Medicare by using these CHAMPUS and Medicare funds to construct needed facilities on California's 109 military installations, thus creating construction work for the unemployed and employment for the medically trained, and reducing CHAMPUS and Medicare funds for private care over the next decade, with a view to eliminating the future need for most of Medicare and CHAMPUS funds for retired military; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Senate Arms Services Committee, and to the House Armed Services Committee.

RESOLUTION CHAPTER 56

Senate Constitutional Amendment No. 58—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending subdivision (c) of Section 2 of Article XIII A thereof, relating to property taxation.

[Filed with Secretary of State June 22, 1984.]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 1983–84 Regular Session commencing on the sixth day of December, 1982, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended by amending subdivision (c) of Section 2 of Article XIII A thereof, to read:

(c) For purposes of subdivision (a), the Legislature may provide that the term "newly constructed" shall not include both of the following:

(1) The construction or addition of any active solar energy system.

(2) The construction or installation of any fire sprinkler system, other fire extinguishing system, fire detection system, or fire-related egress improvement, as defined by the Legislature, which is constructed or installed after the effective date of this paragraph.

RESOLUTION CHAPTER 57

Senate Concurrent Resolution No. 53—Relating to marine resources.

[Filed with Secretary of State June 22, 1984.]

WHEREAS, Seismic exploration for oil and gas deposits in ocean waters involves the use of acoustic pulse generating devices that could have potentially significant effects on living marine resources; and

WHEREAS, An ambitious scientific inquiry which is jointly sponsored by the oil and gas industry, the fishing industry, the Department of Fish and Game, the State Lands Commission, and other interested parties shows great promise for being able to develop pertinent information regarding the effect of these devices; and

WHEREAS, Permits required for the use of acoustic pulse generating devices have been issued and given interim extensions under a categorical exemption from the California Environmental Quality Act; and

WHEREAS, All outstanding permits issued by the State Lands Commission for seismic exploration using acoustic pulse generating

devices have been extended and will now expire in May 1984; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the State Lands Commission, when issuing or extending any permit for seismic exploration using acoustic pulse generating devices, is requested to give the maximum feasible consideration of their effect on living marine resources; and be it further

Resolved, That the State Lands Commission and the Department of Fish and Game shall continue in their efforts to develop additional scientific information about the effects of these devices on living marine resources; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the State Lands Commission and to the Director of Fish and Game.

RESOLUTION CHAPTER 58

Assembly Joint Resolution No. 135—Relative to veterans.

[Filed with Secretary of State June 22, 1984]

WHEREAS, California has recognized the sacrifices made by our state's veterans; and

WHEREAS, California has a veterans home and farm loan program that has been in operation for over 60 years; and

WHEREAS, California's Cal-Vet program has enabled over 375,000 California veterans to secure low interest home loans; and

WHEREAS, A federal House-Senate congressional conference committee is considering legislation (H.R. 4170, the Tax Reform Act) that contains a provision which would sharply curtail and ultimately halt the popular Cal-Vet farm and home loan program for California veterans by elimination of the tax-exempt status of the bonds sold for the program; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature respectfully memorializes the President and the Congress of the United States to preserve the popular Cal-Vet farm and home loan program as it now exists; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 59

Assembly Concurrent Resolution No. 111—Relative to teacher recruitment.

[Filed with Secretary of State June 26, 1984.]

WHEREAS, The State of California is clearly facing a severe shortage of math, science, and bilingual teachers and is relying heavily on emergency credentialed teachers who often have not matriculated from a four-year college or university; and

WHEREAS, Due to increasing enrollments around the state, these shortages will become critical within the decade and will expand to general elementary teaching, as well as other subject areas in the high school curriculum; and

WHEREAS, Interim hearings held in the fall of 1983 by the Assembly Education Committee demonstrated unequivocally that education departments in colleges and universities are presently drawing on the least academically qualified of available college students; and

WHEREAS, Less than one-tenth of 1 percent of freshmen who entered the University of California in 1981 and 5.5 percent of students who took the college board examination in 1978 indicated a willingness to enter the teaching profession, and there are other indications that students are not aware of the availability of teaching jobs; and

WHEREAS, The Hughes-Hart Educational Reform Act of 1983 (Chapter 498 of the Statutes of 1983) took important preliminary steps to meet the teaching shortage and improve the status of the teaching profession; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the University of California and the California State University take immediate steps, in light of the initiatives in Chapter 498 of the Statutes of 1983, to encourage a greater number and broader spectrum of college students to enter teacher education programs and to become teacher trainees; and be it further

Resolved, That the Legislature requests all campuses in the University of California and California State University systems, and private postsecondary institutions, to do all of the following:

(a) Provide information to incoming freshmen, as well as current students, about the current teacher shortage, the increasing demand for teachers concomitant with increasing enrollments in kindergarten and grades 1 to 12, inclusive, and the fact that there are teaching jobs available now and will be in the future;

(b) Provide information to all students on the elements of Chapter 498 of the Statutes of 1983, which are aimed at enhancing the status of and remuneration for teaching, such as improving minimum teacher salaries program, developing a career ladder

through a mentor program, granting student loans for critical subject shortage areas, providing for student discipline and teachers' discretion in grading, retention, promotion, and other areas, and authorizing mini-grants for improvement of classroom instruction directly to teachers.

(c) Provide information to current college students on the teaching trainee option as an entry point to teaching; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Presidents of each campus of the University of California and the California State University.

RESOLUTION CHAPTER 60

Assembly Joint Resolution No. 104—Relative to social security.

[Filed with Secretary of State June 26, 1984.]

WHEREAS, The federal Old Age, Survivors, and Disability Insurance program, established pursuant to Title 2 of the federal Social Security Act (42 USC Sec. 401 et seq.), was established in order to provide, among other persons, the elderly with an adequate income to meet basic needs and live in a dignified manner; and

WHEREAS, Persons who have a similar wage history receive greater old age benefits under this program if they reach age 62 during, or prior to, 1978, than if they reach age 62 after 1978; and

WHEREAS, Several bills have been introduced in the United States Congress to alleviate this disparity, including H.R. 4093, introduced by California Congressman Edward Roybal; and

WHEREAS, It is clearly unjust to permit persons reaching age 62 after 1978 to continue receiving as much as $100 per month less in benefits than those persons with similar wage histories reaching that age during, or prior to, 1978; now, therefore, be it

Resolved, by the Assembly and the Senate of the State of California, jointly, That the Legislature hereby memorializes the Congress and President of the United States to enact legislation equalizing the old age benefit levels received under the Social Security program by all persons with similar wage histories, regardless of the date when they become age 62, and be it further

Resolved, That copies of this resolution shall be transmitted by the Chief Clerk of the Assembly to the President and Vice President of the United States, the Speaker of the House of Representatives, and each Senator and Representative in the California congressional delegation.

RESOLUTION CHAPTER 61

Assembly Joint Resolution No. 108—Relative to persons with disabilities.

[Filed with Secretary of State June 26, 1984.]

WHEREAS, In 1983, UCLA graduate Peter Franklin was the first quadriplegic admitted to a California medical school; and

WHEREAS, He was subjected to four months of struggle with the State Department of Rehabilitation which initially refused to grant him the financial aid needed by him to attend medical school; and

WHEREAS, The state department initially urged Franklin to seek a career as a research assistant which it deemed a more fitting form of entry level employment; and

WHEREAS, There currently is no existing, uniform federal definition of "entry level employment"; and

WHEREAS, The absence of such a definition allows state and federal assistance sources for education, rehabilitation, and vocational training to push entry level support to the lowest possible level, which tends to discourage individuals with disabilities from seeking their highest potential; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California encourages persons with disabilities to seek their highest potential at all times despite physical and social obstacles; and be it further

Resolved, That when state and federal assistance for education, rehabilitation, and vocational training to persons with disabilities is predicated on entry level employment, that that employment be defined on the basis of an assessment of the individual's skills, aptitude, and abilities in order to assist and encourage the individual in reaching his or her highest potential; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the President, the Congress of the United States, the Department of Education and the Commissioner of Rehabilitation Services to define "entry level employment" as it pertains to persons with disabilities seeking state and federal assistance for education, rehabilitation, and vocational training, and to promulgate regulations to ensure the uniform application of this definition throughout the United States so that it will serve to motivate individuals with disabilities to seek their highest potential; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States, the Department of Education, and the Commissioner of Rehabilitation Services.

RESOLUTION CHAPTER 62

Assembly Joint Resolution No. 134—Relative to POW/MIA Recognition Day.

[Filed with Secretary of State June 26, 1984]

WHEREAS, The Congress of the United States has designated July 20, 1984, as National POW/MIA Recognition Day; and

WHEREAS, The Governor has designated the week of July 15 to 20, 1984, as POW/MIA Week; and

WHEREAS, The National League of Families of American Prisoners and Missing in Southeast Asia is continuing its efforts for the return of its members' husbands, sons, and brothers; and

WHEREAS, The Viet Vet House from its inception has a primary mandate that, "...the Vietnam War ends when the dying at home stops, the nightmares are laid to rest, the legacy of physical and emotional concerns are addressed, the 2,500 POW/MIAs are accounted for, and the business of living is gotten on with pride, honor, and dignity for all ..."; and

WHEREAS, The National League of Families of American Prisoners and Missing in Southeast Asia will be coordinating a national balloon release together with other veterans groups and agencies on July 20, 1984, and the Viet Vet House will be the local sponsor for the National League of Families in Sacramento; and

WHEREAS, At 1 p.m. on July 20, 1984, the Viet Vet House will release 2,238 red, white, and blue balloons and 250 gold balloons from the west steps of the State Capitol to represent the 2,488 men still unaccounted for in Southeast Asia; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of California proclaims July 20, 1984, as a special day of recognition for the 250 California POW/MIAs still held unaccounted for by the countries of Laos, Kampuchea, and Vietnam and a day of national remembrance for the 2,488 men still missing; and be it further

Resolved, That the Legislature supports the federal government's efforts to expedite the recovery and return of the remains of dead POW/MIAs currently being held by the governments of Laos, Kampuchea, and Vietnam, and to secure the release of all POW/MIAs still alive and held by those governments; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Secretary of State, to the governments of Laos, Kampuchea, and Vietnam, to the National League of Families of American Prisoners and Missing in Southeast Asia, and to the Viet Vet House.

RESOLUTION CHAPTER 63

Senate Joint Resolution No. 39—Relative to recreational facilities at New Melones Reservoir.

[Filed with Secretary of State June 27, 1984.]

WHEREAS, New Melones Reservoir was authorized by the Flood Control Act of 1944 and by the Flood Control Act of 1962 for purposes of flood protection, irrigation water, power generation, fishery enhancement, and recreation; and

WHEREAS, The Department of the Army (Army Corps of Engineers) prepared master recreation plans for the New Melones Lake Area and Lower Stanislaus River in August 1976 and April 1977, respectively, which contained detailed work plans for recreational facilities and public access areas at 13 sites around the reservoir and 15 sites along the river below the dam; and

WHEREAS, Less than 15 percent of the total funds required to complete these planned facilities have been spent to date; and

WHEREAS, Public use of these facilities has been overwhelming, with campers, boaters, and fishermen making use of whatever facilities are available in great numbers; and

WHEREAS, The master plan for the reservoir detailed 13 sites around the reservoir which were to contain 1400 campsites, 225 lodging units, 615 picnic units, 39 boat launching lanes, 3 marinas with 820 slips, and a host of related facilities such as parking lots and comfort stations; and

WHEREAS, The master plan for the lower Stanislaus River, as amended, detailed 15 sites along the river which were to contain 85 individual and 6 group campsites, 190 picnic areas, 1 boat ramp, and related facilities such as parking lots and comfort stations; and

WHEREAS, In May 1982, it was announced by the Department of the Army that no funds would be budgeted for additional construction of recreational facilities at New Melones unless local governments shared in the cost, a policy which is contrary to every promise made by the federal government and which will have severe repercussions on the ability of local governments to cope with the hundreds and thousands of users of the reservoir; and

WHEREAS, This policy has resulted in less than a comfortable state for reservoir visitors, intrusion onto private lands as visitors try to make do and set up their campers wherever vacant land is available, disruption of the environment from litter and destruction of natural features, and a heavy financial burden on local governments which are saddled with the responsibility of providing services which should be provided by the federal government; and

WHEREAS, The overall plan for the New Melones Project is an integrated development effort, and the recreational development which was planned by the Department of the Army is an integral part of the project, and was promised as mitigation for the loss of the

free-flowing Stanislaus River; and

WHEREAS, A firm commitment was made by the federal government to provide and operate these improvements, and its promises should be kept, as to do otherwise will erode citizens' confidence and expectations and severely impact the financial resources of local governments; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to fulfill the obligations of the federal government to construct and operate recreational facilities for New Melones Reservoir in accordance with the 1976 Master Plan for the New Melones Lake Area and the 1977 Lower Stanislaus River Master Plan, as developed and amended through 1983 by the Army Corps of Engineers; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Army, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 64

Senate Constitutional Amendment No. 29—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending Section 12 of Article VI thereof, relating to the courts.

[Filed with Secretary of State June 28, 1984.]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 1983–84 Regular Session, commencing on the sixth day of December, 1982, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the State of California be amended, as follows:

First—That Section 12 of Article VI thereof is amended to read:

SEC. 12. (a) The Supreme Court may, before decision, transfer to itself a cause in a court of appeal. It may, before decision, transfer a cause from itself to a court of appeal or from one court of appeal or division to another. The court to which a cause is transferred has jurisdiction.

(b) The Supreme Court may review the decision of a court of appeal in any cause.

(c) The Judicial Council shall provide, by rules of court, for the time and procedure for transfer and for review, including, among other things, provisions for the time and procedure for transfer with

instructions, for review of all or part of a decision, and for remand as improvidently granted.

(d) This section shall not apply to an appeal involving a judgment of death.

Second—That the amendment to Section 12 of Article VI shall take effect six months after the date on which it is approved by the electorate.

RESOLUTION CHAPTER 65

Assembly Constitutional Amendment No. 66—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 8.5 of Article XIII thereof, relating to property tax postponement.

[Filed with Secretary of State June 28, 1984.]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1983–84 Regular Session commencing on the sixth day of December, 1982, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended by amending Section 8.5 of Article XIII thereof to read:

SEC. 8.5. The Legislature may provide by law for the manner in which a person of low or moderate income who is 62 years of age or older may postpone ad valorem property taxes on the dwelling owned and occupied by him or her as his or her principal place of residence. The Legislature may also provide by law for the manner in which a disabled person may postpone payment of ad valorem property taxes on the dwelling owned and occupied by him or her as his or her principal place of residence. The Legislature shall have plenary power to define all terms in this section.

The Legislature shall provide by law for subventions to counties, cities and counties, cities and districts in an amount equal to the amount of revenue lost by each by reason of the postponement of taxes and for the reimbursement to the state of subventions from the payment of postponed taxes. Provision shall be made for the inclusion of reimbursement for the payment of interest on, and any costs to the state incurred in connection with, the subventions.

RESOLUTION CHAPTER 66

Assembly Constitutional Amendment No. 69—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding subdivision (e) to Section 2 of Article XIII A thereof, relating to taxation.

[Filed with Secretary of State June 28, 1984.]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1983–84 Regular Session commencing on the sixth day of December, 1982, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the State be amended by adding subdivision (e) to Section 2 of Article XIII A thereof, as follows:

(e) For purposes of subdivision (a), the Legislature shall provide that the term "newly constructed" shall not include any addition to, or alteration or rehabilitation of, a certified historic structure which is an historically accurate reconstruction of once extant features or necessary for safety or handicapped access or required by safety code requirements. This subdivision shall apply only to a dwelling occupied by an owner as his or her principal residence. Whenever the owner uses the property for a purpose other than as his or her principal residence, the portion of addition to, or alteration or reconstruction of the structure which was excluded pursuant to this subdivision shall be reassessed.

RESOLUTION CHAPTER 67

Assembly Concurrent Resolution No. 71—Relative to postsecondary education awareness of nonwhite ethnic groups.

[Filed with Secretary of State July 6, 1984.]

WHEREAS, California is increasingly a multiethnic state whose citizens represent a diverse and rich array of backgrounds; and

WHEREAS, By the turn of the century, the majority of California's population could be from nonwhite ethnic groups; and

WHEREAS, Racial prejudice and oppression have historically stemmed from misunderstandings and from a lack of knowledge of other peoples; and

WHEREAS, These misunderstandings tend to promote existing misconceptions and stereotypical characterizations of nonwhite ethnic groups, which in turn, lead to future patterns of discrimination; and

WHEREAS, These misconceptions and stereotypical characterizations have played a role in denying nonwhite ethnic

groups their basic civil rights; and

WHEREAS, The various racial ethnic groups have made vast contributions to the development of California and the nation; and

WHEREAS, Ethnic studies courses serve to cultivate an understanding of, and an appreciation for, these peoples, their contributions, their cultures, and their aspirations; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That the Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges review respective system and campus policies and programs concerning the nature and extent of course offerings which examine the cultural and historical experiences of those nonwhite ethnic groups that have traditionally been excluded from the core curriculum; and be it further

Resolved, That the regents, the trustees, and the board of governors consider adoption of additional policies and programs, as necessary, to ensure that all graduates with associate of arts or baccalaureate degrees possess an understanding of the histories, cultures, roles, and contributions of nonwhite ethnic groups in the development of California and the nation; and be it further

Resolved, That the regents, the trustees, and the board of governors consider the fiscal implications of adopting additional policies and programs to promote greater ethnic awareness and understanding, paying particular attention to those campuses which have already implemented additional policies and requirements in this area; and be it further

Resolved, That each segment report on actions taken in response to this resolution to the California Postsecondary Education Commission by January 1, 1985; and be it further

Resolved, That the commission, in turn, submit a consolidated report, in addition to a review and oral comment regarding the report, to the Legislature by April 1, 1985; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges.

RESOLUTION CHAPTER 68

Assembly Concurrent Resolution No. 83—Relative to postsecondary education.

[Filed with Secretary of State July 6, 1984]

WHEREAS, The Legislature recognizes that the ethnic composition of California society is becoming increasingly

heterogeneous; and

WHEREAS, It is the intent of the Legislature that all people, regardless of their previous educational background, should have the opportunity to proceed as far as their abilities allow them to in the completion of high-quality programs at the elementary, secondary, postsecondary, and graduate levels; and

WHEREAS, The Legislature recognizes that unless increased numbers of ethnic minority and low-income people are educated at California colleges and universities to be prepared to fill highly skilled jobs, California will be unable to increase the supply of teachers from underrepresented groups and will have considerable difficulty meeting the challenges of future economic and technological growth; and

WHEREAS, The Legislature recognizes that equal educational opportunities for ethnic minority and low-income people will help enhance the education of all students and prepare them for life in a culturally and linguistically pluralistic society, both at home and abroad; and

WHEREAS, The Legislature recognizes that efforts to expand equal educational opportunities for individuals from underrepresented groups should not lessen the admissions requirements or academic standards at public institutions of higher education; and

WHEREAS, The Legislature recognizes that expanding educational opportunities for all people is a shared responsibility of educational institutions on all levels, requiring the cooperative efforts of these institutions, as well as comprehensive institutional efforts coordinating all existing school and campus resources; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, the Association of Independent Colleges and Universities, the State Board of Education, and the State Superintendent of Public Instruction, working through a task force chaired by the Director of the California Postsecondary Education Commission, are hereby requested to cooperatively adopt a plan that will systematically review and assess all existing public and private educational institution programs and on the basis of that assessment make specific recommendations for action that will do the following:

(1) Significantly strengthen the college preparation of low-income and underrepresented ethnic minority students in junior and senior high schools so that, by 1990, the income and ethnic composition of secondary school graduates eligible for admission to public four-year colleges is at least equal to or greater than the income and ethnic composition of secondary school graduates generally.

(2) Sufficiently expand and reorganize necessary academic and

student support activities at the community colleges as well as expand the necessary cooperative activities by the four-year institutions, so that, by 1990, the income and ethnic composition of students completing vocational technical programs or transferring from community colleges into four-year institutions is at least equal to the income and ethnic composition of students enrolling in community colleges.

(3) Sufficiently strengthen and reorganize the necessary academic and support services so that, by 1995, the income and ethnic composition of baccalaureate degree recipients from California colleges and universities is at least equal to the income and ethnic composition of secondary school graduates in 1990; and be it further

Resolved, That this resolution is particularly concerned with individuals from economic, ethnic, or racial backgrounds who have been historically underrepresented in postsecondary education; and be it further

Resolved, That this plan and its recommendations for action do the following:

(1) Emphasize shared responsibility for cooperative, coordinated efforts by the secondary, postsecondary, and graduate institutions.

(2) Identify priorities for action and the institutions responsible, as well as the resources required for implementing these actions.

(3) Involve comprehensive institutional efforts coordinating all existing school and campus resources to meet the educational needs of all students.

(4) Coordinate these strategies with efforts to implement the "Statement on Competencies in English and Mathematics Expected of Entering Freshmen" prepared by the statewide senates of the three postsecondary education segments.

(5) Include a mechanism to evaluate annually progress by each of the segments to the achievement of the goals identified above; and be it further

Resolved, That this plan be submitted to the Legislature on or before July 1, 1985; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, the Association of Independent Colleges and Universities, the State Board of Education, the Superintendent of Public Instruction, and the Director of California Postsecondary Education Commission.

RESOLUTION CHAPTER 69

Assembly Concurrent Resolution No. 94—Relative to State Highway Route 86.

[Filed with Secretary of State July 6, 1984]

WHEREAS, Route 86 is a significant interstate and international transportation facility for the movement of agricultural products from Arizona, Mexico, the Imperial Valley, and the Coachella Valley to the Riverside and Los Angeles market and export areas; and

WHEREAS, Route 86 is the only facility in the area for local and through traffic which includes an increasing volume of passenger vehicles, recreational vehicles, schoolbuses, commercial vehicles, and agricultural vehicles; and

WHEREAS, Most of Route 86 was constructed over 40 years ago as a two-lane highway and is now an increasing maintenance and safety problem; and

WHEREAS, The mix of traffic on a narrow two-lane highway with inadequate shoulders and no provision for passing slow-moving vehicles creates extremely hazardous driving conditions; and

WHEREAS, The accident-fatality rate on the route is about 2 and ½ times higher than the state average for such a facility with 81 fatalities in the five years and eight months from January of 1978 to August of 1983; and

WHEREAS, The Department of Transportation had included improvement of Route 86 to a four-lane freeway in its 1971 and 1972 planning programs, with construction scheduled in the late 1970's; and

WHEREAS, Only minor improvements and replacement of some of the narrow, structurally deficient bridges were included in the 1977 planning programs; and

WHEREAS, In adopting the 1982 State Transportation Improvement Program, the California Transportation Commission added $10,000,000 in the 1986–87 fiscal year for the construction of a four-lane expressway covering a seven-mile segment of Route 86 north of the Route 78 intersection in Imperial County; and

WHEREAS, The commission programmed an additional $38,000,000 in the 1983 State Transportation Improvement Program for 26 miles of four-lane expressway on Route 86 between the Route 78 intersection and the Riverside County line and also programmed $7,300,000 for the initial 2.9 mile segment of Route 86 in Riverside County starting at the Imperial County line; and

WHEREAS, The expeditious improvement of Route 86 would reduce air pollution, save fuel, reduce the cost of transporting agricultural products, and improve driving conditions so that serious accidents would be reduced; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Riverside County Transportation

Commission, the Imperial Valley Association of Governments, and the Southern California Association of Governments are hereby requested to work with the Department of Transportation and the California Transportation Commission to evaluate the feasibility of advancing improvements on State Highway Route 86 which are currently programmed in the 1983 State Transportation Improvement Program and to report the results of the evaluation to the Legislature by December 3, 1984; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the California Transportation Commission, the Director of Transportation, the Riverside County Transportation Commission, the Imperial Valley Association of Governments, and the Southern California Association of Governments.

RESOLUTION CHAPTER 70

Assembly Concurrent Resolution No. 103—Relative to business community involvement with public education.

[Filed with Secretary of State July 6, 1984]

WHEREAS, The public elementary and secondary schools of the State of California are the institutions which must prepare the young for satisfying and productive lives in the larger community, as well as in specific careers; and

WHEREAS, The public schools are facing a severe budget crisis which necessitates more involvement and support from the community than is presently the case; and

WHEREAS, The private sector provides young people graduating from the state's public schools with jobs and career opportunities and thereby has a significant interest in the successful operation of the schools; and

WHEREAS, The private sector has available a variety of talent and resources which would be valuable to students, schoolteachers, and school administrators; and

WHEREAS, The business community through the leadership of the California Business Roundtable, the California Chamber of Commerce, the Industry Education Council of California, and other organizations has announced its intention to encourage a new and deeper commitment by making talent and resources available to schools; and

WHEREAS, A number of business organizations have specifically chosen to make talent and resources available to schools through a variety of school-business partnerships, including the "adopt-a-school" concept which matches a particular business organization with a particular school, brings business employees into the school to work with teachers and students, and involves

donations of materials and equipment; and

WHEREAS, This type of business community involvement with public education fosters many benefits for students and the community; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature requests the business community to expand to as many schools as possible school-business partnership activities, and that the Legislature requests the public school administrators and teachers of the state to cooperate in the development of school-business partnership programs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Department of Education and that the State Department of Education disseminate this resolution to school districts, county offices of education, private industry councils, local chambers of commerce, and other agencies and organizations interested in fostering cooperation between public schools and the business community.

RESOLUTION CHAPTER 71

Assembly Concurrent Resolution No. 120—Relative to merit awards.

[Filed with Secretary of State July 6, 1984.]

WHEREAS, Section 19823 of the Government Code provides that awards may be made to state employees in excess of three thousand dollars ($3,000) when the awards are approved by concurrent resolution of the Legislature; and

WHEREAS, An award of three thousand dollars ($3,000), divided equally, has already been made to Art Doell, Pam Lanza, Jan Makiney, and Carol Usmial, Franchise Tax Board, for a suggestion which resulted in annual savings of forty thousand seven hundred seventy-five dollars ($40,775) by recommending the practice of attaching amended tax returns to originals and hand stamping "original attached" be discontinued; and

WHEREAS, An award of three thousand dollars ($3,000) has already been made to Marcella F. Enos, Franchise Tax Board, for a suggestion which resulted in annual savings of sixty-seven thousand three hundred twenty dollars ($67,320) by recommending that fraudulent payment of Homeowner/Renter Assistance refund be minimized with use of the "problem address list" used to detect fraud under the Personal Income Tax program; and

WHEREAS, An award of three thousand dollars ($3,000), divided equally, has already been made to Gerald Floyd, Mary (Adabkhah) Gibson and Robert D. O'Brien, Employment Development

Department, for a suggestion which resulted in annual savings of thirty-three thousand one hundred twenty-eight dollars ($33,128) by recommending a more efficient method of screening overpayment documents; and

WHEREAS, An award of three thousand dollars ($3,000) has already been made to Lawrence J. McGetrick, Jr., Department of Motor Vehicles, for a suggestion which resulted in annual savings of eighty-nine thousand eight hundred thirty-five dollars ($89,835) by recommending the foreign language law test be printed in a multiple choice words and phrases format instead of given orally with flashcards; and

WHEREAS, An award of three thousand dollars ($3,000) has already been made to Mary D. Benefiel, Department of Motor Vehicles, for a suggestion which has resulted in annual savings of fifty thousand five hundred ninety-nine dollars ($50,599) by recommending that the practice of sorting and filing 4 x 5 error cards be discontinued. Recent EDP changes eliminate the need to refer to these error cards during the clearance process; and

WHEREAS, An award of three thousand dollars ($3,000) has already been made to Greg J. Herrback, Department of Motor Vehicles, for a suggestion which has resulted in annual savings of forty-seven thousand seven hundred twenty-four dollars ($47,724) by recommending that cross-reference cards attached to applications for substitute license plates or plate reassignments not be sorted and filed since this information is available through data entry records; and

WHEREAS, An award of three thousand dollars ($3,000) has already been made to J.D. Sewell, Department of Motor Vehicles, for a suggestion which resulted in annual savings of sixty-five thousand two hundred nine dollars ($65,209) by recommending that the Vehicle Code be amended to allow courts to report all violations by magnetic tape to the Department of Motor Vehicles, thereby permitting electronic storage of the abstracts; and

WHEREAS, An award of seven thousand eight hundred fifty-three dollars ($7,853) has already been made to Michael E. Lahodney, Department of Transportation, for a suggestion which has resulted in annual and one-time savings of eighty-one thousand seven hundred thirty-four dollars ($81,734) by recommending purchase of a Data-Quick Information System and microfiche reader/printer for monthly updated tabulation of all deed recordings in the County of Los Angeles; and

WHEREAS, The suggestions of these employees have resulted in annually recurring and one-time savings amounting to four hundred seventy-six thousand three hundred twenty-four dollars ($476,324); and

WHEREAS, As a result of these savings, it is unnecessary to appropriate additional funds for payment of these awards; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate

thereof concurring, That the following awards, which have been approved by the Department of Personnel Administration, are hereby authorized to the employees named:

Art Doell, two hundred sixty-nine dollars ($269)

Pam Lanza, two hundred sixty-nine dollars ($269)

Jan Makiney, two hundred sixty-nine dollars ($269)

Carol Usmial, two hundred sixty-nine dollars ($269)

Marcella F. Enos, three thousand seven hundred thirty-two dollars ($3,732)

Gerald Floyd, one hundred five dollars ($105)

Mary (Adabkhah) Gibson, one hundred five dollars ($105)

Robert D. O'Brien, one hundred five dollars ($105)

Lawrence J. McGetrick, Jr., five thousand nine hundred eighty-five dollars ($5,985)

Mary D. Benefiel, two thousand sixty dollars ($2,060)

Greg J. Herrback, one thousand seven hundred seventy dollars ($1,770)

Michael E. Lahodney, one hundred sixty dollars ($160)

J.D. Sewell, one thousand one hundred thirty dollars ($1,130); and be it further

Resolved, That the Chief Clerk of the Assembly is directed to transmit a copy of this resolution to the Department of Personnel Administration and to the Controller.

RESOLUTION CHAPTER 72

Assembly Joint Resolution No. 51—Relative to hazardous waste incineration.

[Filed with Secretary of State July 6, 1984.]

WHEREAS, The Environmental Protection Agency is currently considering the possibility of burning hazardous wastes in incinerator ships off California's coast; and

WHEREAS, The legal jurisdiction and enforcement responsibility in international waters is unclear and, to date, no regulations for incineration of hazardous wastes at sea have been adopted; and

WHEREAS, No substantial research has yet been completed on the potential short-term or cumulative long-term effects of this incineration proposal and neither have any risk assessments been completed; and

WHEREAS, Spills or leakages of raw waste from an incineration vessel could cause considerable adverse economic and environmental consequences; and

WHEREAS, A hazardous waste spill could occur or hazardous wastes could be dumped in an emergency, releasing highly persistent, toxic compounds which would sink to the bottom of the

ocean, contaminating the entire water column and the marine life therein; and

WHEREAS, The practice of ocean incineration does not provide for complete destruction of any hazardous waste, thus allowing unburned materials or dangerous emissions to escape onto the microlayer of the ocean, poisoning organisms and fish and possibly moving up the food chain; and

WHEREAS, Hydrochloric acid, which is sometimes released in the burning process, could contribute to the formation of acid fog and acid rain; and

WHEREAS, The technical capability to incinerate hazardous waste remains unknown, including the ability to maintain a constant temperature of at least 2,400° F for long periods of time, and it would be difficult to monitor the technical burning process at sea; and

WHEREAS, Transporting the waste materials to incineration sites would also present risks of catastrophic damage to the marine and coastal environments; and

WHEREAS, Additional unknown and significant adverse effects may also exist but are not clear, due to the lack of information; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California jointly, That the Legislature of the State of California respectfully memorializes the President of the United States to direct the Environmental Protection Agency to stop considering any proposals to incinerate hazardous waste off California's coast, until valid and reliable scientific studies have proven that the environmental effects of this proposal would be negligible; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the President and Vice President of the United States, to the Administrator of the Environmental Protection Agency, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 73

Senate Concurrent Resolution No. 67—Relative to the Public Utilities Commission.

[Filed with Secretary of State July 6, 1984.]

WHEREAS, Alternative sources of energy have the potential to provide a significant supplement to conventional energy resources as an element of the state's energy supply mix; and

WHEREAS, The Legislature has consistently supported the development of alternative sources of energy by private energy producers in order to reduce the state's dependence on foreign

sources of imported oil and to reduce the negative environmental impacts of conventional energy facilities; and

WHEREAS, The Public Utilities Commission is responsible for regulating the privately owned public utilities of the state and determining which utility expenses are just and reasonable for ratesetting purposes; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Public Utilities Commission is requested to establish standard price offers for public utility contracts with private energy producers and corporations or persons employing cogeneration technology in the generation of electricity for electric energy from alternative sources which reflect the application of all of the following criteria:

(a) Electricity produced from alternative sources of energy, or from qualifying small power production facilities, as defined in Section 228.5 of the Public Utilities Code, should be accurately and fully valued for its role in displacing and deferring utility owned electricity generation.

(b) Financial and technical risks should be fairly allocated between the electricity producers and the ratepayers.

(c) The development of alternative sources of energy should serve to help stabilize electricity rates in California and make power generation as efficient as possible.

(d) Projects owned by public utilities and projects owned by these alternative electricity producers should be able to compete, on a comparable basis, to provide the most economical power generation to meet California's electricity demands.

(e) Once an alternative electricity producer has signed a standard offer with a public utility, the commission will not change the provisions of that contract unless required to do so by federal or state law.

(f) The commission will not disallow, for ratemaking purposes, any costs incurred by public utilities in implementing the provisions of standard offers.

(g) The commission may authorize nonstandard contracts for more than the public utility's full avoided cost, or its equivalent, when the generation project may provide demonstration of a technology with substantial potential for future development in California and when the technology has not already been commercially developed.

(h) The commission's adopted methods for calculating prices for electricity from qualifying facilities will be as simple and verifiable as possible.

(j) Development of qualifying small power production facilities is compatible with a public utility's ability to most economically generate and purchase power and with a public utility's ability to provide reliable service.

(k) Qualifying small power production facilities will be given as much financial and operating certainty as possible; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Public Utilities Commission.

RESOLUTION CHAPTER 74

Senate Concurrent Resolution No. 68—Relative to the Paul R. Bonderson Building.

[Filed with Secretary of State July 9, 1984.]

WHEREAS, Paul R. Bonderson effectively developed major portions of the California Water Quality Control program; and

WHEREAS, Mr. Bonderson, during his service as the first Regional Board Executive Officer for the Central Coast Region, spearheaded the cleanup of raw sewage discharges from scores of communities; and

WHEREAS, He initiated the cleanup of Monterey and Santa Barbara Bays, resulting in the cleanup of domestic sewage discharges and voluntary cleanup by industry; and

WHEREAS, Mr. Bonderson, after his appointment as State Water Quality Control Board Executive Officer in 1956, initiated a sorely needed research program which established the scientific bases for protection of California surface and ocean waters and increased understanding of the complicated San Francisco Bay/Delta system; and

WHEREAS, Mr. Bonderson successfully directed the commencement and expansion of the Clean Water Grant Program in California, which became a model for the nation; and

WHEREAS, Mr. Bonderson effectively and energetically worked for the development and implementation of the federal Clean Water Grant Program, which has enabled hundreds of California communities to meet clean water goals; and

WHEREAS, He significantly assisted the planning for and merger of water quality and water rights regulatory functions into one coordinating body, the Water Resources Control Board; and

WHEREAS, Mr. Bonderson served as President of the California Water Pollution Control Association and the Association of State Water Pollution Control Agencies, and earned the respect and support of his fellow professionals in these endeavors; and

WHEREAS, For 31 years, Paul R. Bonderson provided strong and effective leadership in the fight to keep California water free of pollution; and

WHEREAS, Paul R. Bonderson's death in July, 1983, was a profound loss to his family, friends, and associates; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That as a fitting memorial to Paul R. Bonderson's

distinguished service to the State of California, the state building located at 901 P Street, Sacramento, headquarters of the Water Resources Control Board, shall henceforth be known as the Paul R. Bonderson Building; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to Florence Bonderson, Paul R. Bonderson, Jr., Carla Hulse, Gayle Swarbrick, the State Water Resources Control Board, and the State Department of General Services.

RESOLUTION CHAPTER 75

Senate Concurrent Resolution No. 69—Relative to vehicle repair.

[Filed with Secretary of State July 9, 1984.]

WHEREAS, Changes in the automobile manufacturing industry have resulted in a significant and steady increase in the number of energy efficient unibody-constructed vehicles being produced, sold, and driven; and

WHEREAS, These vehicles' construction employs the use of new lightweight, high-strength steel and other special materials and assembly methods; and

WHEREAS, The newer vehicles tend to be lighter and smaller than those produced and sold in the past making them more prone to damage resulting from accidents; and

WHEREAS, The proper and safe repair of the unibody and frameless vehicles presents special repair considerations, may require additional training in repair procedures, and often requires the use of special equipment; and

WHEREAS, Improperly repaired vehicles present a serious safety hazard to the vehicles' drivers and the general public; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Bureau of Automotive Repair in the Department of Consumer Affairs is hereby requested to collect and analyze data relative to the existence of problems in the repair of unibody automobiles and the "clipping" of damaged vehicles; and be it further

Resolved, That the study shall examine (1) whether repair of the unibody-type vehicle requires special additional training of automotive repair personnel or imposes special repair equipment needs, (2) whether those needs are being met, (3) whether manufacturers' vehicle repair guidelines are sufficient to ensure the safe repair of damaged unibody vehicles, and (4) whether the introduction of unibody automobiles has had a negative impact on collision insurance loss ratios; and be it further

Resolved, That other departments and agencies of state

government shall cooperate and provide assistance upon the request of the Bureau of Automotive Repair, and that the bureau shall consult with representatives of the automotive repair, insurance, and other private industries as necessary for completing its study; and be it further

Resolved, That the Bureau of Automotive Repair is requested to submit a report to the Legislature on or before September 1, 1984, containing the data and information requested by this resolution; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Chief of the Bureau of Automotive Repair.

RESOLUTION CHAPTER 76

Senate Concurrent Resolution No. 83—Relative to missing children.

[Filed with Secretary of State July 9, 1984]

WHEREAS, Approximately two million children are reported missing in the United States each year; and

WHEREAS, This figure is composed of approximately one million runaways, one-third of whom are forced out of their homes by their parents; approximately 100,000 victims of noncustodial parental abduction, and between 6,000 and 50,000 victims of abduction by unrelated persons; and

WHEREAS, Approximately 71,000 children are reported missing in California each year; and

WHEREAS, There is often insufficient information or inadequate access to information regarding services available to missing children and their families; and

WHEREAS, Child fingerprinting programs to aid in the identification of missing children are not widely available; and

WHEREAS, The problem of missing children is a great waste of human resources, and the damage suffered by missing children and their families is severe and long-lasting; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Superintendent of Public Instruction shall implement a pilot program in all California school districts designed to reduce the number of abducted and runaway children and aid in the identification and recovery of children now missing; and be it further

Resolved, That the pilot program shall be a cooperative effort of schools, parent groups, and local volunteers, and that it shall include, but not be limited to, all of the following:

(a) Any information regarding missing children age 12 years and under submitted to a school shall immediately be placed in a central

directory at the school which is accessible to both certificated and classified personnel.

(b) Crisis information, including, but not limited to, phone numbers for local counseling, shelters, and runaway hotlines, shall be openly posted at schools.

(c) Schools shall work with parent groups and law enforcement personnel to implement a voluntary child fingerprinting program to provide participating parents with a set of their child's fingerprints.

(d) Schools shall provide at least one annual age-appropriate presentation focusing on the prevention of abduction and runaways.

(e) The Superintendent of Public Instruction shall develop procedures to be followed by school personnel in cases where new students are unable to provide complete school records. The procedures shall include, but not be limited to, notification of agencies or groups involved with the recovery of missing children; and be it further

Resolved, That the pilot program shall be implemented during the 1984–85 school year; and be it further

Resolved, That at the close of the 1984–85 school year, the Superintendent of Public Instruction shall collect from each school district information regarding the methods used to implement the pilot program, and any descriptive statistics or other information concerning the program's success; and be it further

Resolved, That the Superintendent of Public Instruction shall submit a report of those findings to the Legislature, the Senate Select Committee on Children and Youth, and the Assembly Select Committee on Child Abuse, on or before June 30, 1986.

RESOLUTION CHAPTER 77

Senate Joint Resolution No. 52—Relative to tuna.

[Filed with Secretary of State July 9, 1984.]

WHEREAS, Canned tuna imports have increased 128 percent in the past five years; and

WHEREAS, Between 1981 and 1983, tuna imports have increased about 73 percent; and

WHEREAS, In 1983, imports gained 40 percent, and, so far in 1984, imports are increasing over 1983; and

WHEREAS, Since 1981, employment in the California tuna industry has declined 23 percent, and over 4,000 people have lost their jobs; and

WHEREAS, Between 1981 and 1982, the cannery processing capacity for tuna has declined over 16 percent, and over 20 percent of the vessels in the tuna fleet are idle or underutilized; and

WHEREAS, The amount of tuna packed in water was aggressively

promoted by domestic canners and has reached a majority of the present market, but the tariff rate on water-packed tuna is only 6 percent compared to the tariff rate of 35 percent on oil-packed tuna, which has created a tariff loophole through which foreign packers in 1983 imported into the domestic market over 290 million cans of water-packed tuna; and

WHEREAS, The California tuna industry has petitioned the United States International Trade Commission for relief from the increasing flow of imported canned tuna in water from foreign packers; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature respectfully memorializes the President, the Congress, and the United States International Trade Commission to provide immediate relief to the tuna industry of California and this nation from the ever increasing flow of imported canned tuna in water by, among other methods, adjusting appropriate tariff rates; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the United States International Trade Commission, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 78

Senate Joint Resolution No. 55—Relative to designating the Los Angeles Memorial Coliseum a National Historic Landmark.

[Filed with Secretary of State July 9, 1984.]

WHEREAS, The Los Angeles Memorial Coliseum was originally completed in 1923 and dedicated to the American dead of World War I; and

WHEREAS, The Coliseum was conceived and financed by local civic groups as a 75,000 seat multi-purpose stadium to serve the people of the Greater Los Angeles Region; and

WHEREAS, The Los Angeles Memorial Coliseum was partially reconstructed and enlarged to seat 101,574 spectators for the 1932 Summer Olympic Games of the Xth Olympiad, and has since witnessed many other significant sports, as well as political and historical events; and

WHEREAS, The Coliseum was both originally designed and later redesigned by one of the pioneer architects of California, John Parkinson, with his son Donald B. Parkinson, whose many Los Angeles buildings of the early 20th Century are now nationally registered historical sites; and

WHEREAS, The Los Angeles Memorial Coliseum was successfully

nominated by The American Institute of Architects, and cosponsored by the Los Angeles Memorial Coliseum Commission and the University of Southern California, as California Registered Historical Landmark No. 960, and has been nominated and cosponsored by those organizations as a National Historic Landmark; and

WHEREAS, The Coliseum will become the first Olympic stadium in the world to host two official modern Summer Olympic Games when the XXIIIrd Olympiad opens there on July 28, 1984; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California endorses the nomination of the Los Angeles Memorial Coliseum as a National Historic Landmark and memorializes the Secretary of the Interior to expeditiously make that designation in order that the dedication ceremonies may be held on the opening day of the XXIIIrd Olympiad in Los Angeles, July 28, 1984; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 79

Assembly Concurrent Resolution No. 52—Relative to transportation.

[Filed with Secretary of State July 10, 1984.]

WHEREAS, Frequent reports to the Legislature would permit the Legislature to better understand and monitor the status of large projects in the State Transportation Improvement Program; and

WHEREAS, Frequent reports, being public information, would also inform the public of the progress of projects in the State Transportation Improvement Program; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation review and report to the Legislature on or before February 1, 1985, and quarterly thereafter, on the status of projects in the State Transportation Improvement Program which have a total scheduled cost of one million dollars ($1,000,000) or more in the first year of the State Transportation Improvement Program; and be it further

Resolved, That the department include the cost of those reports in the proposed 1985–86 fiscal year Governor's Budget; and be it further

Resolved, That, if the 1985–86 Budget Act, as enacted, includes funding for these reports, the reports continue to be made in the 1985–86 fiscal year and, upon availability of funds, in subsequent

future years; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of Transportation and to the California Transportation Commission.

RESOLUTION CHAPTER 80

Assembly Concurrent Resolution No. 77—Relative to a Governor's residence and executive office.

[Filed with Secretary of State July 10, 1984.]

WHEREAS, In order to provide a suitable residence for the Governor of California it is necessary that the state construct a Governor's residence at a site that has convenient access to the State Capitol; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Joint Committee on a Governor's Residence and Executive Office is hereby created and authorized to do the following:

(a) Assess and determine the requirements applicable to the design and construction of a building or buildings that may be used, in the conduct of the state's business, as a residence and as an executive office by the Governor of California.

(b) Solicit the submission of architectural designs and select by means of a competitive process, within 12 months of the start of the competition, the most appropriate design for the construction of a building or buildings that may be used as a Governor's residence and executive office; and be it further

Resolved, That the location of a Governor's residence and executive office shall be considered and determined by the committee, taking into consideration, among other things, the displacement of available parking spaces; and be it further

Resolved, That the Joint Committee on a Governor's Residence and Executive Office shall consist of three members of the Senate and three members of the Assembly, and that the chairperson of the committee shall be appointed by the Joint Rules Committee pursuant to Joint Rule 36.7; and be it further

Resolved, That the committee and its members shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee and its members; and that the committee shall do all things necessary or convenient to enable it fully and adequately to perform its duties and accomplish the objects and purposes of this resolution; and be it further

Resolved, That the committee shall report to the Legislature within one year after the effective date of this resolution on its activities and its recommendation for the architectural design which it deems the most appropriate to satisfy the requirements that it has identified; and be it further

Resolved, That the Joint Rules Committee may make such money available from the Contingent Funds of the Assembly and Senate as it deems necessary for the expenses of the committee and its members, and in accordance with Joint Rule 36.8, any such expenditure of funds shall be made in compliance with policies set forth by the Joint Rules Committee and shall be subject to the approval of the Joint Rules Committee; and be it further

Resolved, That the committee shall continue in existence only until January 1, 1986.

RESOLUTION CHAPTER 81

Assembly Concurrent Resolution No. 105—Relative to the Year of Prevention and Elimination of Child Abuse, Neglect, and Sexual Assault.

[Filed with Secretary of State July 10, 1984]

WHEREAS, Approximately one million children in America are suffering from child abuse and neglect; and

WHEREAS, One in four girls and one in seven boys will be sexually assaulted before they reach the age of 18 years; and

WHEREAS, Child abuse, neglect, and sexual assault may result in the child's death, injury, negative self-image, feelings of isolation, uniqueness, responsibility, guilt, and depression, as well as in the manifestation of tragically self-destructive behavior which includes youth suicide, running away, and prostitution; and

WHEREAS, It is the social and moral responsibility of the state to intervene in the vicious cycle of child abuse, neglect, and sexual assault; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature, with the support of the many dedicated youth advocates and agencies, declares the year of 1984 as the Year of Prevention and Elimination of Child Abuse, Neglect, and Sexual Assault; and be it further

Resolved, That the Legislature strongly support all efforts to inform the citizens of the state of the tragic reality of child abuse, neglect, and sexual assault, and to acquaint the citizens of the state with the excellent resources available through the many dedicated child advocates and service providers in the State of California.

RESOLUTION CHAPTER 82

Assembly Concurrent Resolution No. 110—Relative to state highways.

[Filed with Secretary of State July 10, 1984]

WHEREAS, The 15,200-mile state highway system carries 56 percent of the miles traveled in the State of California; and

WHEREAS, The state highway system is essential for sustaining the state's economic vitality and satisfying the personal travel requirements of individuals; and

WHEREAS, The State of California does not have a highway system plan which the Legislature, the Governor, the California Transportation Commission, the Department of Transportation, and various interests could draw upon to develop a strategy for financing highway investments; and

WHEREAS, A highway system plan would identify and analyze highway deficiencies on a consistent, statewide basis, thus enabling informed decisions on the scheduling and funding of highway projects; and

WHEREAS, A highway system plan would identify the capability of specific highway segments to accommodate expected travel demand given alternative types of improvements and levels of funding; and

WHEREAS, A highway system plan would allow the Legislature, the Governor, the California Transportation Commission, and the Department of Transportation to communicate to the public the quality of service the state highway system is able to provide at different levels of funding; and

WHEREAS, The Department of Transportation has been requested by the County Supervisors Association of California and the League of California Cities to assist in the preparation of a report on public road resource requirements; and

WHEREAS, The Department of Transportation initiated a highway system planning process in 1983, the results of which will not be known until 1985; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation is requested to prepare and submit to the Legislature a comprehensive status report on its highway system planning process on or before August 31, 1984, and a final draft report on or before October 15, 1984, in order for the Legislature to have sufficient opportunity to review and comment on the highway system planning effort while work is in progress; and be it further

Resolved, That the department is requested to prepare and submit to the Legislature a report on public road resource requirements on or before on August 31, 1984; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of

this resolution to the Governor, the California Transportation Commission, and the Director of Transportation.

RESOLUTION CHAPTER 83

Assembly Concurrent Resolution No. 121—Relative to physical education and athletic programs.

[Filed with Secretary of State July 10, 1984.]

WHEREAS, Regular, organized physical activity has been found to significantly improve the health and academic performance of schoolchildren; and

WHEREAS, Regular physical activity during childhood and adolescence contributes to lifelong habits of physical activity and to the reduction of stress; and

WHEREAS, Since 1977 California public school physical education and athletics programs have been adversely affected by the loss of staff, decreased budget allocations, restricted course offerings, and fewer physical education requirements; and

WHEREAS, These problems have had a detrimental effect on the well-being of pupils; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California recognizes the benefits to be derived from organized physical activity; and be it further

Resolved, That the State Department of Education and school districts in the state recognize the intent of the Legislature that all able pupils should participate in vigorous physical activity; and be it further

Resolved, That school districts should offer physical education programs which provide: access to all pupils in kindergarten and grades 1 to 12 to activities designed to promote physical fitness, to games and competitive sports, and to activities which build lifelong fitness; equal opportunities for the participation of males and females, as well as the disabled; adequate staff and class sizes to promote instruction in individual and group activities; and opportunities for physical education teachers to participate in professional growth activities within their respective disciplines.

RESOLUTION CHAPTER 84

Assembly Concurrent Resolution No. 130—Relative to incarcerated veterans.

[Filed with Secretary of State July 10, 1984.]

WHEREAS, Veterans comprise 9,800 of the 31,000 male prisoners incarcerated in state facilities in California; and

WHEREAS, 6,205 of these incarcerated veterans are Vietnam-era veterans; and

WHEREAS, Post Traumatic Stress Disorders associated with combat service have been shown to be contributing factors to antisocial behavior and subsequent involvement with the criminal justice system; and

WHEREAS, Research indicates that veterans manifest a greater potential for successful rehabilitation; and

WHEREAS, Treatment programs are available which could be used as alternatives to incarceration or serve as counseling and treatment resources for those veterans for whom incarceration is the only appropriate alternative; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Judicial Council request the Center for Judicial Education and Research to add a component to the judicial educational program that addresses the following areas:

(1) The phenomenon of Post Traumatic Stress Disorders among Vietnam veterans as it may pertain to the involvement of those veterans in the criminal justice system;

(2) Available resources and authorities which may be employed to obtain assessments and diagnoses of Post Traumatic Stress Disorders among Vietnam veterans which may be relevant in matters before the court;

(3) Available treatment or counseling programs for Vietnam veterans which may serve, when appropriate, as alternatives to incarceration in criminal sentencing;

(4) Available resources for treatment and counseling which may be made available in prison facilities to Vietnam veterans for whom a period of incarceration is the appropriate sentence; and be it further

Resolved, That this program be implemented by June 30, 1985, and that the Judicial Council is requested to prepare and submit a report to the Legislature by January 1, 1986, as to the approach and materials utilized in this educational component and the effectiveness thereof.

RESOLUTION CHAPTER 85

Assembly Concurrent Resolution No. 131—Relative to University of California programs in fisheries, aquaculture, and related sciences.

[Filed with Secretary of State July 10, 1984.]

WHEREAS, The living marine, estuarine, anadromous, and freshwater resources of California are present in large variety and abundance; and

WHEREAS, Those resources are of great importance in terms of value, volume, and overall quality to commercial and recreational fisheries of California and to local economies in particular; and

WHEREAS, Aquaculture in the State of California is a developing industry for many species of fish and shellfish; and

WHEREAS, There are many unique species of fish, marine, mammals, and aquatic plants found in state waters; and

WHEREAS, Alteration of the environment or habitat of living aquatic resources may have profound effects upon survival, abundance, distribution, and availability for commercial and recreational purposes; and

WHEREAS, The wise use and management of these resources for the good of the living aquatic resources, the state and its citizens, and local economies depend upon principles and procedures derived from study, research, or adaption of existing practices; and

WHEREAS, State and federal management agencies, environmental organizations, and commercial and recreational fisheries have an increasing need for information and advice on fisheries matters; and

WHEREAS, In a number of states throughout the nation where living aquatic resources are of economic and social importance, universities offer formal academic training, curricula, and degrees in fisheries and related sciences; and

WHEREAS, The University of California has worldwide recognition in diverse areas of expertise relevant to fisheries and aquaculture; and

WHEREAS, The University of California has initiated the organization of its resources with the intention of establishing a program in the area of fisheries and related sciences; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California requests the Regents of the University of California to assure the development of a program in fisheries, aquaculture, and related sciences; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Regents of the University of California.

RESOLUTION CHAPTER 86

Assembly Concurrent Resolution No. 151—Relative to Women's Voter Registration Week.

[Filed with Secretary of State July 10, 1984]

WHEREAS, Elected officials at the city, state, and national level make decisions affecting important women's issues, including, but not limited to, equal rights, economic equity, comparable worth, educational equity, childcare, support for single parents, and reproductive rights; and

WHEREAS, The ratification of the Nineteenth Amendment to the United States Constitution, as certified on August 26, 1920, granted women the right to vote; and

WHEREAS, Women currently comprise approximately 53 percent of the voting-age population and are increasing their voter participation rate each year at the national level; and

WHEREAS, The promotion of the women's vote can be an effective means for achieving the balance of representation that our political process needs in order to more effectively serve our state; and

WHEREAS, The enhanced participation of women in the electoral process will also encourage our elected officials to express greater interest in women's views, concerns, and programs; and

WHEREAS, This interest is crucial to the common good of our society and for the equal representation of all issues in our society; and

WHEREAS, The establishment of "Women's Voter Registration Week" in the State of California will encourage greater awareness in all voters concerning the relevance of women voter registration, and will educate all persons about women's concerns and the great need for integrating them more fully into the problem-solving agendas of our elected officials; and

WHEREAS, The establishment of "Women's Voter Registration Week" will allow women's organizations and others throughout the State of California, on college campuses, and in the community, to work together for the collective goal of registering women to vote and participate in the electoral process; now, therefore, be it

Resolved, By the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby proclaims that the week of September 23 through September 29, 1984, be declared "Women's Voter Registration Week," during which women and men shall actively support efforts to increase voter registration and voter turnout among women.

RESOLUTION CHAPTER 87

Assembly Joint Resolution No. 60—Relative to cable television.

[Filed with Secretary of State July 10, 1984]

WHEREAS, Cable television is an important communications medium that serves as an extension of interstate commerce; and

WHEREAS, There is no existing national policy governing cable television although a definite need exists therefor; and

WHEREAS, National cable television policy needs to accommodate a meaningful role for state and local governments in overseeing the growth and development of cable television consistent with federal policies; and

WHEREAS, National cable television policy also needs to establish a legislative framework that includes: (1) a rational franchise renewal process that strikes a reasonable balance between cable television operators' need for franchise stability and local government ability to acquire the best possible cable television services for their citizens; (2) rate deregulation procedures; (3) reasonable franchise fees; and (4) guarantees of public access, equal employment opportunity and adequate consumer protections for California's 3 million and the nation's 40 million cable television subscribers; and

WHEREAS, The Congress has before it legislation to establish a national cable television policy that is the result of a compromise agreement between the National Cable Television Association and the National League of Cities which embodies the above principles; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California is in support of the compromise agreement of the National Cable Television Association and the National League of Cities relating to national cable television policy, and federal legislation that embodies the principles enunciated herein, and be it further

Resolved, That the Legislature respectfully calls upon the Congress to enact federal cable television legislation this session; and be it further

Resolved, That the Legislature respectfully calls upon the Federal Communications Commission to forego regulation that would unfairly and improperly preempt state and local government involvement in the development of cable television in California; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States; to the Speaker of the House of Representatives; to each Senator and Representative from California in the Congress of the United States; to the Chairperson of the Senate Commerce Committee; to the Chairperson of the House Energy and Commerce Committee; and to the Chairperson of the House Subcommittee on Telecommunications, Consumer Protection, and Finance; to the Chairperson and Commissioners of the Federal Communications Commission; and to the Governor of the State of California.

RESOLUTION CHAPTER 88

Senate Concurrent Resolution No. 62—Relative to enterprise zones.

[Filed with Secretary of State July 11, 1984.]

WHEREAS, The enterprise zone concept is based upon utilizing the competitive open market to solve urban problems; and

WHEREAS, Enterprise zones are based on an entirely fresh approach for promoting economic growth in the cities, removing government barriers and freeing individuals to create, produce, and earn wages and profits; and

WHEREAS, The enactment of Assembly Bill 40 and Assembly Bill 514 of the 1983–84 Regular Session of the Legislature will create a mechanism for localities to apply for additional enterprise zones in depressed areas of this state, and there are areas in the County of Los Angeles which would particularly benefit from the implementation of this legislation; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature urges the City of Los Angeles and the County of Los Angeles to proceed, as speedily as possible, on an application for an enterprise zone in the community of Pacoima in the City of Los Angeles, and to proceed on a joint application for an enterprise zone in the community of East Los Angeles, and on a joint application for an enterprise zone in the community of Watts, now that Assembly Bill 40 and Assembly Bill 514 both have been enacted; and be it further

Resolved, Now that Assembly Bill 40 (Ch. 45, Stats. 1984) and Assembly Bill 514 (Ch. 44, Stats. 1984) have been enacted, that the Department of Economic and Business Development give prompt and adequate attention to these proposed enterprise zones as part of the initial group of applications to be processed.

RESOLUTION CHAPTER 89

Assembly Concurrent Resolution No. 133—Relative to telephone company yellow pages.

[Filed with Secretary of State July 12, 1984]

WHEREAS, The Commission on California State Government Organization and Economy, the "Little Hoover Commission," has identified certain inadequacies in providing consumer information on the availability and quality of community residential care in California which may result in inappropriate placements of persons dependent on supervised daily living; and

WHEREAS, A listing in the yellow pages of the telephone

directory of licensed community residential care facilities by the client groups they serve would facilitate the location of appropriate facilities by prospective residents, their family members, or other representatives; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Department of Social Services, with the advice and assistance of the Department of Consumer Affairs and the State Long-Term Care Ombudsman, is requested to develop recommendations for appropriate telephone directory yellow pages listings of licensed community residential care facilities organized according to the major client groups the facilities serve, including elderly persons, the developmentally disabled, the mentally disabled, and substance abusers; and be it further

Resolved, That the State Department of Health Services, with the advice and assistance of the Department of Consumer Affairs and the State Long-Term Care Ombudsman, is requested to develop recommendations for appropriate telephone directory yellow pages listings of long-term health care facilities, and be it further

Resolved, That the State Department of Social Services and the State Department of Health Services are requested to meet with representatives of all telephone companies publishing telephone directories in California in order to provide them with the recommendations for telephone directory listings of licensed community residential care facilities; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the State Department of Social Services, the Department of Consumer Affairs, the State Department of Health Services, the State Long-Term Care Ombudsman, and all telephone companies publishing telephone directories in California.

RESOLUTION CHAPTER 90

Senate Joint Resolution No. 50—Relative to federal forestlands.

[Filed with Secretary of State July 12, 1984]

WHEREAS, The United States Department of Agriculture has announced its intention to initiate a federal legislative proposal which would materially change the way certain timber-related revenues are distributed among counties of states containing federal forestlands; and

WHEREAS, Under current law, when timber is harvested from federal land by private entities, the public revenues derived from that harvesting are allocated between the federal government and an individual state government on a 75–25 percentage basis, with the 25 percent state share being apportioned to the counties of the state containing federal forestlands; and

WHEREAS, The Department of Agriculture's proposal would alter this existing system by permitting individual counties to assess and tax the federal government on its timber holdings as if it were a private sector entity, thereby causing some counties to realize increased revenues while at the same time causing other counties to suffer a significant reduction in revenues; and

WHEREAS, This potential disparity in county revenue expectations would result from the fact that the proposed system would penalize those counties in which the federal forestland activities conducted are principally the harvesting of timber and would benefit those counties in which the activities conducted are principally those not associated with harvesting, such as recreational activities; and

WHEREAS, Most of the counties of northern and central California contain substantial federal forestland acreage which is heavily harvested, thus presently producing a significant source of income for those counties; and

WHEREAS, The enactment of legislation of the type proposed by the Department of Agriculture would have a disastrous effect upon that income, thereby creating a severe fiscal crisis for those affected California counties; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Secretary of the United States Department of Agriculture not to proceed with that legislation proposed by the department which would provide for the local taxation of federally-owned forestland; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Secretary of Agriculture, and to the Chief of the Forest Service.

RESOLUTION CHAPTER 91

Senate Concurrent Resolution No. 47—Relative to the Herbert S. Miles Safety Roadside Rest Area.

[Filed with Secretary of State August 10, 1984]

WHEREAS, Herbert S. Miles is a native Californian who was a graduate civil engineer of the University of California and a 42-year career employee of the State of California; and

WHEREAS, He was the district highway engineer in charge of State Highway District 2, comprising the Counties of Tehama, Shasta, Plumas, Lassen, Modoc, and portions of the Counties of Siskiyou, Trinity, and Butte, from March 1956 to May 1973; and

WHEREAS, During his tenure as district highway engineer, most of the interstate highway system and many portions of the state

freeway and expressway system in District 2 were planned, designed, and constructed; and

WHEREAS, He was an early and strong advocate for a system of safety roadside rests along the state highway system; and

WHEREAS, While district highway engineer, he developed 20 safety roadside rest areas to complement the state highway system in District 2; and

WHEREAS, These safety roadside rest areas are acknowledged to be among the best and most beautiful in the state, with one safety roadside rest area in Siskiyou County receiving national acclaim in 1971; and

WHEREAS, The safety roadside rest area on Interstate Route 5 near Red Bluff was among the first facilities planned, designed, and constructed on the interstate highway system in California; now, therefore, be it

Resolved, by the Senate of the State of California, the Assembly thereof concurring, That the accomplishments and contributions of Herbert S. Miles to the people of the State of California be recognized by the official designation of the northbound and southbound safety roadside rest areas on Interstate Route 5, 5 miles north of the City of Red Bluff, as the Herbert S. Miles Safety Roadside Rest Area; and be it further

Resolved, That the Department of Transportation be directed to determine the cost of erecting appropriate plaques and markers, consistent with signing requirements for the National System of Interstate and Defense Highways, showing this official designation and, upon receiving donations from private sources covering that cost, to erect those plaques and markers; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 92

Assembly Concurrent Resolution No. 98—Relating to health.

[Filed with Secretary of State August 14, 1984]

WHEREAS, The State of California has over two million people residing in rural areas, a population larger than the total populations of 17 other states within the United States; and

WHEREAS, The rural residents of California are directly responsible for half of the state's total economic productivity through such industries as agriculture, lumber, and mining; and

WHEREAS, The health of the rural population is essential to the economic health of the State of California; and

WHEREAS, The State of California has been a leader in developing comprehensive and sophisticated health care delivery

systems in the United States; and

WHEREAS, Rural health care is an integral part of California's health care delivery system; and

WHEREAS, Rural health care delivery systems have had to overcome unique problems in developing a rural health services network because of limited resources, excessive distances, and climatic and geographic barriers; and

WHEREAS, Rural health care providers and organizations including, federal, state, county, local, and volunteer agencies have successfully established a rural health care network serving the health and welfare of rural Californians in spite of these obstacles through a process of cooperation and innovation; and

WHEREAS, Rural health care providers and organizations are under increased pressure because of regulatory constraints, limited resources, and decreased reimbursements which threaten the viability of California's rural health care system; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the month of May 1984 and annually thereafter be proclaimed "Rural Health Care Recognition Month"; and be it further

Resolved, That rural health care providers, organizations, and beneficiaries be taken into consideration and be given attention as proposed bills relating to health care are considered by the Legislature and the Governor; and be it further

Resolved, That state agencies and departments make every effort to simplify, streamline, or adapt regulations which affect rural health care providers and organizations to avoid unnecessary costs and time delays, while at the same time assuring that the quality and accessibility of care remain at the same or greater levels; and be it further

Resolved, That a rural health division be maintained within the State Department of Health Services to give appropriate and due consideration to the health needs of rural residents and to effectuate the streamlining or adaptation of regulations that impact rural health services; and be it further

Resolved, That this rural health division shall be vested with responsibilities which shall include development of a biannual comprehensive statewide plan, as provided in Section 1180.2 of the Health and Safety Code (Ch. 1295, Stats. 1983), for rural health, with emphasis on primary, prevention-oriented services, professional consultation and training provided directly by qualified state-level professionals, allocation and monitoring of funds, ongoing evaluation of existing and proposed health delivery models, and coordination of rural health networks; and be it further

Resolved, That the Director of Health Services shall transmit copies of the plan required by Section 1180.2 of the Health and Safety Code and the lists required by Section 1180.7 of the same code to the appropriate legislative committees and legislative caucuses

concerned with rural issues; and be it further

Resolved, That it is the intent of the Legislature that, upon receipt of a copy of this resolution, the Secretary of the Health and Welfare Agency make the resolution available for inspection by rural health care providers and organizations; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Secretary of the Health and Welfare Agency and to the Director of Health Services.

RESOLUTION CHAPTER 93

Assembly Concurrent Resolution No. 138—Relative to boating safety in the Sacramento-San Joaquin Delta.

[Filed with Secretary of State August 14, 1984]

WHEREAS, The waterways of the Sacramento-San Joaquin Delta are heavily used by recreational boaters from throughout the state; and

WHEREAS, Boating safety in the Sacramento-San Joaquin Delta is a matter of great importance not only to boaters, but to marina owners, law enforcement, agricultural interests, and environmentalists; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Boating and Waterways is requested to conduct a comprehensive study of boating safety in the San Joaquin-Sacramento Delta and to include input from all users of delta waterways, including marina owners, law enforcement, recreational boaters, delta farmers, sportsmen, and environmentalists; and be it further

Resolved, That the study shall include identification of the extent of boating accidents and boating hazards in the delta and shall include appropriate recommendations to the Legislature for measures to increase boating safety in the delta; and be it further

Resolved, That the Department of Boating and Waterways shall submit the study, together with appropriate recommendations, to the Legislature not later than December 1, 1986; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Boating and Waterways.

RESOLUTION CHAPTER 94

Assembly Concurrent Resolution No. 143—Relative to professional sports.

[Filed with Secretary of State August 14, 1984]

WHEREAS, The activities associated with spectator sports are embodied in the American way of life; and

WHEREAS, Professional and amateur athletic organizations have flourished in California as a result of loyal fan support; and

WHEREAS, California's fans have lent the names of their cities to sports organizations; and

WHEREAS, The citizens of California have constructed the finest facilities in the world in order that sports and the concepts of fair play that they embody might flourish; and

WHEREAS, Calfornia is the nation's largest sports state with 15 professional sports teams; and

WHEREAS, Loyal support of California's fans has led to the enrichment of our state's heritage through the establishment of sports legends and traditions; and

WHEREAS, Spectator sports has enjoyed the emotional, political, and financial support of fans in the face of internal disputes, that in many cases have threatened the future of spectator events; and

WHEREAS, The economy of California is continuously enhanced by the athletic events our fans support; and

WHEREAS, In a year in which California hosts such major sporting events as the Major League Baseball All Star Game and the Olympics a recognition of rights is hereby due for California's sports consumers, the fan; now, therefore be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature salutes the enthusiastic and devoted support of California sports consumers, the fans, who have supported a wide variety of sports events, events which encompass considerably more professional teams than any other state; and be it further

Resolved, That the Legislature hereby declares that the consumer or fan is a vital link in the professional sports system and encourages fan access, participation, and input into legislative or governmental decisions affecting professional sports; and be it further

Resolved, That, in response to the countless contributions made to our State by California's fans, those contributions are hereby recognized by declaring 1984 as the year of the fan; and be it further

Resolved, That a suitably prepared copy of this resolution be transmitted to the commissioners, owners, player representatives, and directors of all professional sports leagues and teams operating in California.

RESOLUTION CHAPTER 95

Assembly Concurrent Resolution No. 144—Relative to the employment of handicapped students.

[Filed with Secretary of State August 14, 1984.]

WHEREAS, The Auditor General has conducted an audit of Project Workability and filed a report entitled, "The State's Project Workability Has Improved the Coordination of Services for the Employability of Handicapped Students," dated February, 1984, and this report concludes that the project has resulted in improved employment opportunities for handicapped students; and

WHEREAS, The concept of Project Workability was initiated by the State Department of Education in 1981 as an innovative approach to provide employment skills for handicapped youth ages 16 to 21; and

WHEREAS, Project Workability is a true partnership established at the state level through nonfinancial interagency agreements among the State Department of Education, the Department of Employment Development, and the Department of Rehabilitation, and has elevated awareness in the private sector of the employment potential of handicapped youth, and focuses its efforts in developing career futures for handicapped youth, and preventing needless economic and social dependency on state and community agencies and resources; and

WHEREAS, Local education agencies in California established linkages between agencies, eliminated duplication of effort, and developed precedent-setting employment training practices which should be preserved and advanced to reach all handicapped high school youth in our state to better assure future productive employable citizens; and

WHEREAS, Funding for the project is predicated upon the availability of state general funds and funds from the Education of the Handicapped Act and The Vocational Education Act, and these funds have been reduced and are not adequate for maintaing the current level of support or sufficient for expanding Project Workability; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That the State Department of Education, the Department of Rehabilitation, and the Department of Employment Development, continue to support Project Workability through interagency agreements, and that the Legislature endeavor to identify resources that may be directed to fund this project; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Superintendent of Public Instruction, the Director of Rehabilitation, and the Director of Employment Development.

RESOLUTION CHAPTER 96

Assembly Joint Resolution No. 127—Relative to sexual assaults.

[Filed with Secretary of State August 14, 1984.]

WHEREAS, Women who have been raped while serving on active duty in the Armed Forces of the United States have been denied damages from the Armed Forces; and

WHEREAS, The basis for this denial is a decision of the United States Supreme Court that, based on the provisions of the Federal Tort Claims Act, a member of the Armed Forces may not claim damages for injuries incurred incident to military service; and

WHEREAS, The Army considers rape an injury incident to military service; and

WHEREAS, A recent example of the injustice perpetrated by this state of affairs is the denial by the Army of a claim for damages filed by Betty Ann Buckmiller who, while serving in the Army, was raped and savagely beaten by two soldiers at an Army base; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California hereby respectfully memorializes the President and Congress of the United States to (1) enact legislation compensating Betty Ann Buckmiller for her damages; (2) direct the Department of Defense to review and change its definition of "injuries incident to military service" with regard to its claims procedure; (3) require the Department of Defense to provide counseling and other services to assist the recovery of military personnel who are the victims of sexual assault; and (4) require the Department of Defense to provide rape education and prevention programs on all military bases and to provide training materials which include rape education information; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 97

Senate Concurrent Resolution No. 87—Relative to a special day of recognition in Honor of the 200th Anniversary of the Death of Father Junipero Serra.

[Filed with Secretary of State August 14, 1984]

WHEREAS, Father Serra was born Miguel Jose Serra on November 24, 1713, in the village of Petra on the Isle of Mallorca, Spain, entered, in 1724, the Franciscan Order, a Monastic Order of the Catholic Church, and was ordained to the priesthood as Padre Serra in Palma, Mallorca; and

WHEREAS, He received a Doctorate in Sacred Theology and occupied the Chair of Divinity at the National University of Blessed Raymond Lull in Palma, Mallorca, had a distinguished career as a professor, and was considered an eloquent orator; and

WHEREAS, In 1749, at the age of 36, he gave this way of life up in order to go to the New World as a missionary, where he labored in the Sierra Gorda, Central Mexico, for 20 years as a missionary and preacher to the native peoples; and

WHEREAS, In 1769, he was appointed Padre Presidente of the newly proposed missions, to be located in Alta California, by the Franciscan Order, and between 1769 and 1784, he founded the first nine missions in the chain of 21 missions that "dot" the California coastline:

San Diego de Alcalá—July 1, 1764,
San Carlos Borroméo de Carmelo—June 3, 1770,
San Antonio de Padua—July, 1771,
San Gabriel Arcángel—September 8, 1771,
San Luis Obispo de Tolosa—September 8, 1772,
San Francisco de Asís—June, 1776,
San Juan Capistrano—October 30, 1775,
Santa Clara de Asís—January, 1777
San Juan Buenaventura—March 31, 1782; and

WHEREAS, Between 1769 and 1784, when Padre Serra died, he labored long and with dedication to bringing Christianity and civilization to the natives of Alta California, and he not only accomplished his task as a Missionary, but laid the foundation for future generations of Californians; and

WHEREAS, Being a man of great vision, he dreamed of expanding the El Camino Real all the way from San Diego northward to Alaska; and

WHEREAS, In 1784, he died in his beloved Carmel Mission and, at his own request, is buried in the sanctuary there; and

WHEREAS, Padre Serra's life is exemplary and admired, not only for all that he accomplished in the short span of 15 years in the New World, but also for the endurance of hardships under which he labored as a soldier and mediator of Indian troubles, explored the rough California terrain, dealt with the colonial government, throughout which, he was plagued by continuous ill health and an ulcerated leg; and

WHEREAS, California is honoring Father Serra with a special day of recognition on August 28, 1984, because he was the pioneer founder, and through his efforts, the seeds of civilization were planted firmly within our state; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly

thereof concurring, That the Legislature of the State of California hereby proclaims August 28, 1984, as a Special Day of Recognition in Honor of the 200th Anniversary of the Death of Father Junipero Serra.

RESOLUTION CHAPTER 98

Senate Concurrent Resolution No. 64—Relative to consumer affairs.

[Filed with Secretary of State August 17, 1984.]

WHEREAS, Consumers in California have come to rely on the Department of Consumer Affairs to resolve consumer disputes involving businesses which are regulated by the department; and

WHEREAS, The various boards and bureaus within the Department of Consumer Affairs may have differing policies and procedures with regard to the handling of consumer inquiries and complaints; and

WHEREAS, The various boards and bureaus may have differing policies with regard to action taken regarding unlicensed activity; and

WHEREAS, The actual jurisdiction of the various boards and bureaus within the Department of Consumer Affairs may be different from the consuming public's perception of such jurisdiction; and

WHEREAS, The consuming public and the Legislature are entitled to know the actual policies of the boards and bureaus with regard to their impact on consumer protection; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That each board and bureau within the Department of Consumer Affairs submit a report to the Legislature, on or before November 30, 1985, which includes the following: (1) the board or bureau's written policy and procedures for responding to complaints and inquiries received from the public, including licensees; (2) a detailed analysis, including volume and nature, of all inquiries and complaints received by the board or bureau during fiscal year 1984–85 which are determined to be outside the jurisdiction of the board or bureau, and an explanation of the basis on which those communications have been determined to be outside the jurisdiction of the board or bureau; and (3) the board or bureau's written policy and procedures for responding to complaints involving unlicensed practitioners; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of the Department of Consumer Affairs.

RESOLUTION CHAPTER 99

Senate Concurrent Resolution No. 75—Relative to suicide.

[Filed with Secretary of State August 17, 1984.]

WHEREAS, The problem of suicide is a leading public health problem within the nation; and

WHEREAS, Suicide and suicide attempts remain one of the least understood and acknowledged problems cutting across all levels of society; and

WHEREAS, In attempting to understand and acknowledge the problem of suicide and suicide attempts in the California criminal justice system, minimum standards and training on "self destructive behavior" have been instituted by the Commission on Peace Officers Standards and Training and the Department of Corrections; now, therefore, be it

Resolved, by the Senate of the State of California, the Assembly thereof concurring, That the Youth and Adult Correctional Agency is requested to undertake a review of current programs relating to suicide and suicide attempts in correctional institutions and facilities; and be it further

Resolved, That during the period of October 30, 1984, through October 30, 1985, the Youth and Adult Correctional Agency will design a system that will facilitate the collection of data on suicides and suicide attempts in state and county correctional institutions and centers; and be it further

Resolved, That the Youth and Adult Correctional Agency report its findings and recommendations to the Legislature by January 1, 1986; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Secretary of the Youth and Adult Correctional Agency.

RESOLUTION CHAPTER 100

Senate Concurrent Resolution No. 19—Relative to transferring the administration of the homeowners' exemption to the Franchise Tax Board.

[Filed with Secretary of State August 20, 1984.]

WHEREAS, The California Constitution has provided, since 1968, for a partial exemption from assessment of owner-occupied residences, popularly known as the homeowners' exemption, with the purpose of reducing the local property taxes imposed on those residences; and

WHEREAS, The adoption of Proposition 13 in June of 1978 has

resulted in substantial reductions in local tax rates, with the further result that the homeowners' exemption now provides less than $100 in property tax relief in most cases; and

WHEREAS, The administration of the homeowners' exemption as an adjustment to local property taxes is a significant expense for local government, particularly in relation to the benefits derived by taxpayers; and

WHEREAS, The Department of Finance is obligated under the Constitution to subvene to local government moneys to replace the local revenue lost as a result of the homeowners' exemption; and

WHEREAS, The joint administration of quality control procedures requires coordination among the Franchise Tax Board, the State Board of Equalization, and each county in order to cross-check for improper multiple filings of claims for homeowners' exemptions and renters' credits, as well as periodic audits by the State Board of Equalization and the Controller of the administration of the exemption; and

WHEREAS, Placing the total responsibility for the exemption within a single agency offers the potential for substantial administrative savings at both the state and local levels; and

WHEREAS, The current fiscal situation of both state and local government demands that all potential economies in the operation of existing programs be carefully and fully evaluated; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislative Analyst shall ascertain, study, and analyze the facts relating to the possible transfer of the administration of the homeowners' exemption from local assessors to the Franchise Tax Board; and be it further

Resolved, That this study and analysis shall consider, in addition to any other aspects of the proposal considered by the Legislative Analyst to be appropriate, each of the following:

(a) The feasibility of the administration of the homeowners' exemption by the Franchise Tax Board in a manner similar to the renters' credit.

(b) The retention by local assessors of responsibility for homeowners' exemptions for those persons who do not file state income tax returns.

(c) The cost savings to local governments.

(d) The possibility of cost savings to the state.

(e) The net overall cost savings to state and local government agencies; and be it further

Resolved, That the Legislative Analyst shall complete this analysis and submit a report of the findings to the Legislature by May 1, 1985.

RESOLUTION CHAPTER 101

Senate Concurrent Resolution No. 54—Relative to artistic and cultural resources.

[Filed with Secretary of State August 20, 1984.]

WHEREAS, The enjoyment of and participation in the arts are vital components of the quality of life in California; and

WHEREAS, The arts play an important role in the economy of this state; and

WHEREAS, There has been a significant decline over the past decade in the number of arts programs offered in the state's public schools; and

WHEREAS, Creation of a Joint Committee on the Arts would enable the Legislature to better monitor existing arts programs and address issues relating to the arts in California; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That:

1. The Joint Committee on the Arts is hereby created and authorized and directed to study, investigate and analyze the following matters:

(a) The goals appropriate to the future of the arts and cultural life of California.

(b) The role the Legislature and state government should play in the achievement of these goals.

(c) Arts legislation in other states and at the federal level, with a view towards recommendations for the introduction of legislation in California.

(d) The budgets and programs of the California Arts Council and other state supported arts and cultural programs and agencies.

(e) The present status of arts education in California.

(f) The economic impact of the arts in California.

2. The committee shall report to the Legislature as directed by the Joint Rules Committee and shall include in its report recommendations for appropriate legislation.

3. The committee shall consist of the following members:

(a) Six Members of the Senate appointed by the Senate Rules Committee.

(b) Six Members of the Assembly appointed by the Speaker of the Assembly.

The chairman of the committee shall be appointed by the Joint Rules Committee.

4. The committee shall continue in existence from December 1, 1984, until such time as the Joint Rules Committee deems it appropriate to terminate the committee.

5. The committee has the following powers and duties:

(a) All of the rights, duties, and powers conferred upon investigating committees and their members by the provisions of the

Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to the committee and its members.

(b) To contract, subject to the Joint Rules, with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies, and reports to the committee as will best assist it to carry out the purposes for which it is created.

(c) To issue certificates of merit to any local government agency or official including, but not limited to, city councils, boards of supervisors, and mayors, whose efforts in supporting and encouraging the arts in their cities or counties are noteworthy and highly commendable. The chairman shall, with concurrence from the committee, be authorized to issue no more than five certificates yearly beginning December 1, 1984.

(d) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution.

6. The Joint Rules Committee may make funds available from the Contingent Funds of the Assembly and Senate for the purposes of this resolution, and the joint committee may expend such funds for the expenses of the committee and its members and for any charges, expenses, or claims it may incur under this resolution; provided, that any expenditure of funds shall be made in compliance with policies set forth by the Joint Rules Committee and shall be subject to the approval of the Joint Rules Committee.

RESOLUTION CHAPTER 102

Senate Concurrent Resolution No. 82—Relative to poison information centers.

[Filed with Secretary of State August 20, 1984]

WHEREAS, In today's homes and work places, numerous products and materials contain dangerous and sometimes deadly substances; and

WHEREAS, Contact with, or ingestion of, these substances can cause serious illness or death; and

WHEREAS, Crisis situations of this type can be mitigated by the availability of poison information centers; and

WHEREAS, In this state, the existence of, and funding for, poison information centers is sporadic and incomplete; and

WHEREAS, It is in the interest of the public health and safety to provide access to poison information; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Emergency Medical Services Authority

conduct a study of the need and, if appropriate, propose a plan to the Legislature to assist local governments in providing poison information services; and be it further

Resolved, That, if the need for poison information services is found by the authority to be significant, the Legislature will consider the appropriateness of committing state funds for the support of local poison information centers; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Emergency Medical Services Authority.

RESOLUTION CHAPTER 103

Senate Concurrent Resolution No. 85—Relative to organ transplants.

[Filed with Secretary of State August 20, 1984.]

WHEREAS, Between 20,000 and 50,000 persons die each year in the United States from causes or in circumstances that would not preclude the usage of their vital organs through voluntary donation for anatomical transplant purposes; and

WHEREAS, The majority of all persons dying each year from all causes are potentially suitable candidates as tissue donors; and

WHEREAS, It is estimated that less than 10 percent of the potentially available organs and tissues become available for donation for various reasons; and

WHEREAS, An unknown number of persons are desirous of donating their organs or tissues in the event of their death; and

WHEREAS, An unknown number of persons have sincere objections to organ and tissue donation; and

WHEREAS, Positive identification of persons injured or dying is often difficult; and

WHEREAS, Law enforcement officers, coroners, emergency service personnel, and others attempting to locate legal next-of-kin often have difficulty in making that contact; and

WHEREAS, California law now provides that the coroner of jurisdiction may remove or authorize removal of corneas from the eyes of persons becoming deceased in circumstances which place the remains of the decedent in the custody of those coroners, if there is no known objection; and

WHEREAS, The removal of corneal tissue must be accomplished within less than six hours following death in order to be of optimal quality for usage in corneal transplantation; and

WHEREAS, The most effective and expeditious way to make positive change is to create a systematic and universal, statewide structure for the purpose of registration of persons who wish to make donations of their organs or tissues, or who, for whatever reason, wish

to register their objection to these procedures; and

WHEREAS, The Institute of Life Extension, a California Non-Profit Public Benefit Corporation, is now in the process of implementing such a statewide structure, with its ultimate goal being to provide these, and other services, such as assisting in identification of individuals in emergency situations as well as recording decisions on organ and tissue donations, to appropriate agencies and individuals for the benefit and protection of all citizens within the state; and

WHEREAS, The data base will offer the opportunity to all persons who wish to enroll to include extensive information which will assist in the location of, and transfer of information to, appropriate family members. This information may include, but shall not be limited to:

(a) Emergency telephone numbers of relatives.

(b) Employment telephone numbers.

(c) Family coded identification numbers to be affixed to solid surfaces or imprinted or written in clothing.

(d) Identification tags, bracelets, or other devices inscribed with family identification codes, and including identification cards to be carried by individuals with family reference coding.

(e) Motor vehicle license numbers which would assist law enforcement officers searching for specific relatives in emergency situations.

(f) Medical information, which would describe known allergies or conditions.

(g) Name and telephone number of family physician.

(h) Organ donation decision information; and

WHEREAS, There is no similar comprehensive statewide program which has been expressly designed to achieve these specific purposes; now, therefore, be it

Resolved, by the Senate of the State of California, the Assembly thereof concurring, That the Legislature respectfully memorialize California's police chiefs, sheriffs, coroners, law enforcement agencies and associations, boards of supervisors, city councils, mayors, political, social, religious and civic leaders and organizations, fire departments and emergency service personnel, hospitals, physicians, health care personnel, and, indeed all Californians, to provide all possible encouragement and support to this emergency response system, known as "NEXT-OF-KIN", which is a most praiseworthy and ambitious statewide program and which, being a function of the private sector, will offer necessary controls regarding the confidential nature of the information as may be contained therein, with access limited and restricted to those who, in the official performance of their designated duties, may require that information.

RESOLUTION CHAPTER 104

Senate Joint Resolution No. 36—Relative to the Pony Express Trail.

[Filed with Secretary of State August 20, 1984]

WHEREAS, The Pony Express Trail fast mail relay system constituted a crucial turning point for western expansion and development; and

WHEREAS, The Pony Express Trail ran for a distance of 2,000 miles from Saint Joseph, Missouri, the western terminus of the railroads in 1860, to Sacramento, California; and

WHEREAS, The Pony Express, operated by the freight and stageline firm of Russell, Majors & Waddel, provided an improved communications link between the widely separated eastern United States and the western frontier, enabling important correspondence to be delivered in 8 to 12 days; and

WHEREAS, The fearless riders of the Pony Express carried mail along the route day and night, each man riding about 75 miles at full speed, stopping only to transfer to fresh ponies at manned relay stations at intervals of 10 to 15 miles; and

WHEREAS, The Pony Express is a cultural record that embodies the finest American qualities of private enterprise, fortitude, courage, teamwork, and commitment to excellence; now, therefore, be it

Resolved by the Senate, and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to enact legislation authorizing for study the Pony Express Trail as a national historic trail; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 105

Senate Joint Resolution No.37—Relative to the 1984 Summer Olympic Games.

[Filed with Secretary of State August 20, 1984.]

WHEREAS, On June 23, 1894, the International Olympic Committee was established by Baron Pierre de Coubertin to encourage the organization and development of sport and international sports competition; and

WHEREAS, The Olympic spirit has continued since then to

promote and strengthen friendship among sportsmen and women of all nations; and

WHEREAS, It remains the aim of the international Olympic community to ensure the regular celebration of the Games, and to make the Games ever more worthy of their proud history and high ideals; and

WHEREAS, In these times of increased international tensions, we need, more than ever, the spirit of Olympic friendship and people-to-people diplomacy; and

WHEREAS, The goals of the Olympic movement have been brilliantly realized by the Games of the XXIIIrd Olympiad; and

WHEREAS, The people of California and the host city of Los Angeles have warmly welcomed Olympic teams from 140 nations; and

WHEREAS, The Los Angeles Olympic Organizing Committee (LAOOC) has enjoyed the excellent leadership of its President, Peter V. Ueberroth; its Chairman, Paul Ziffren; and its Executive Vice-President, Harry L. Usher; and

WHEREAS, The LAOOC has painstakingly administered a budget of $500 million, all of it derived from private sources, and has skillfully coordinated the activities of approximately 50,000 volunteers; and

WHEREAS, The excellent performance of the 597-member U.S. Olympic Team has done much to rekindle American pride, and the spectacular staging of the games has done credit to the tradition of the Olympic Games as a celebration of sport and an effort to unite the youth of the world in peace; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California salutes the athletes of the Games of the XXIIIrd Olympiad, the Los Angeles Olympic Organizing Committee, the spectators who came from all parts of the globe, and the people of California for the parts all of them have played in making the 1984 Summer Olympic Games an outstanding success; and be it further

Resolved, That the Legislature urges the President and Congress of the United States to reaffirm our nation's appreciation of the Games of the XXIIIrd Olympiad by appropriately recognizing the achievements of the United States Olympic Team and the Los Angeles Olympic Organizing Committee; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Los Angeles Olympic Organizing Committee.

RESOLUTION CHAPTER 106

Assembly Constitutional Amendment No. 21—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 11 of Article XI thereof, relating to the deposit of public moneys.

[Filed with Secretary of State August 22, 1984.]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1983–84 Regular Session commencing on the sixth day on December, 1982, two-thirds of the members elected to each of the two houses of the Legislature voting therefor hereby proposes to the people of the State of California that the Constitution of the state be amended by amending Section 11 of Article XI thereof to read:

SEC. 11. (a) The Legislature may not delegate to a private person or body power to make, control, appropriate, supervise or interfere with county or municipal corporation improvements, money, or property, or to levy taxes or assessments, or perform municipal functions.

(b) The Legislature may, however, provide for the deposit of public moneys in any bank in this state or in any savings and loan association in this state or any credit union in this state and for payment of interest, principal and redemption premiums of public bonds and other evidence of public indebtedness by banks within or without this state. It may also provide for investment of public moneys in securities and the registration of bonds and other evidences of indebtedness by private persons or bodies, within or without this state, acting as trustees or fiscal agents.

RESOLUTION CHAPTER 107

Assembly Concurrent Resolution No. 74—Relative to earthquake safety for state-owned and leased buildings.

[Filed with Secretary of State August 22, 1984]

WHEREAS, The Seismic Hazard Survey of State of California Buildings completed on April 9, 1981, ranked approximately 1,350 buildings and recommended that these rankings be used to budget and authorize funds for engineering studies of the potential seismic hazards of individual state-owned buildings; and

WHEREAS, The Seismic Safety Commission Report Evaluating the Seismic Hazard of State-Owned Buildings adopted February 8, 1979, recognizes that it may not be feasible to reconstruct or replace all state-owned buildings found lacking in earthquake protection, but recommends all state agencies, including the University of California

and the California State University, immediately begin a program to identify and plan to correct readily apparent exterior and interior falling hazards; and

WHEREAS, There is no requirement for specific review of seismic safety elements of state building plans and independent inspection of construction of state buildings has been exempt from state building codes, both of which are required for buildings constructed by private parties; and

WHEREAS, California contains many types of geologic hazards which are not well addressed in the state building codes; and

WHEREAS, The state leases office space in private buildings without requiring a preliminary engineering report to ensure that the building meets seismatic safety standards; and

WHEREAS, It is the responsibility of the state, the University of California, and the California State University to provide their employees and the public with buildings that assure the safety of the occupants in the event of an earthquake; and

WHEREAS, California is a well-known seismic region and recognized seismic authorities are predicting California will experience a major earthquake of magnitude 7 or greater on the Richter Scale during the next 10 years; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That the Department of General Services, the University of California, and the California State University are urged to require an engineering inspection for seismic safety, based on criteria and methodology established pursuant to the Seismic Safety Commission Report Evaluating the Seismic Hazard of State-Owned Buildings adopted February 8, 1979, as a condition of lease for all future state leased facilities, that all future building plans and construction be reviewed and inspected by the Office of the State Architect, or by an independent outside structural consultant competent in seismic engineering, for seismic safety adequacy, that an appropriate evaluation of the geologic hazards be made of new and existing sites, and that all state agencies, including the University of California and the California State University, owning buildings are urged to begin an inspection program to identify and correct exterior and interior falling hazards; and be it further

Resolved, That the Governor is urged to budget and authorize funding for the engineering evaluation of potential seismic hazards of individual state-owned buildings and for rehabilitation costs for improving the seismic performance of the "top 20" high-occupancy, high-risk state-owned buildings previously indentified by the Seismic Safety Commission; and be it further

Resolved, That this resolution is not requesting the expenditure of any additional funds but rather that the Department of General Services, the University of California, and the California State University are requested to perform the functions of this resolution to the extent possible using existing resources within their existing appropriations; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor, the Director of General Services, the Regents and the President of the University of California, and the Trustees and the Chancellor of the California State University.

RESOLUTION CHAPTER 108

Assembly Concurrent Resolution No. 150—Relative to fire protection.

[Filed with Secretary of State August 22, 1984.]

WHEREAS, The Department of Forestry has provided rural fire protection services to local agencies under contract since 1905; and

WHEREAS, The contracts all encompass areas for which the state has the responsibility for providing wildland fire protection; and

WHEREAS, The level of service provided by these contracts is determined by the governing board of the local agency in cooperation with the Department of Forestry; and

WHEREAS, Local government pays for all costs incurred by the state in providing these services; and

WHEREAS, Both the state and each local government agency receive substantial cost and operational benefits from these contracts; and

WHEREAS, It is the policy of the Legislature to support and strongly encourage efficiency in providing government services through this type of cooperation between state and local government; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby expresses its intent that no impediment be placed in the way of either the state or local government that would have the effect of limiting the provision of fire protection services by the state to local government agencies who request and pay for those services; and be it further

Resolved, That state-mandated impediments, which would jeopardize the lives and property of persons protected through contracts for fire protection services by the state, including such actions as hiring freezes, personnel ceilings, delays in contractings, failure to establish contracted positions in a timely manner, and not allowing local agencies to renew or expand existing contracts, are not within the intent of the Legislature; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor, the Lieutenant Governor, the Director of Forestry, and each local government agency which is currently contracting for fire protection services with the Department of Forestry.

RESOLUTION CHAPTER 109

Assembly Concurrent Resolution No. 154—Relative to hazardous materials in the environment.

[Filed with Secretary of State August 22, 1984.]

WHEREAS, There has been an increasing public and governmental concern regarding the potential threat to the health of Californians from toxic chemicals and hazardous materials in the environment as exemplified by the persistently poor quality of air in major urban areas, the discovery of an increasing number of unregulated toxic dump sites, groundwater contamination from inadequate disposal of agricultural and industrial chemicals, and use of hazardous building materials; and

WHEREAS, There is evidence of extreme hazards to health associated with levels of toxic materials found to be already existing in an increasing number of communities; and

WHEREAS, There has been a rapid escalation in the number of new chemicals annually being introduced into the environment with limited knowledge of their health effects; and

WHEREAS, Sound public health policies can prevent or reduce the incidence of cancer, miscarriages, birth defects and other diseases caused by exposure to toxic chemicals; and

WHEREAS, There appears to be a significant need for trained personnel in the technology of toxic substances and their health effects; and

WHEREAS, The State of California has one of the finest universities in the world which has been designated responsibility for research and graduate education; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the University of California is requested to develop, by January 1, 1985, a plan to further research on the health effects of hazardous substances including the adverse effects on the public health associated with toxic materials in the environment, and on improved methods and technologies for hazardous waste control and disposal, including the development of new materials with reduced toxic effects. The plan should include a program for the multidisciplinary teaching of graduate students and senior professionals to meet the state's needs for appropriately trained personnel in public health and other relevant professional fields; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Regents of the University of California.

RESOLUTION CHAPTER 110

Assembly Joint Resolution No. 63—Relative to ocean fishing.

[Filed with Secretary of State August 22, 1984]

WHEREAS, Since the Pacific Fishery Management Council was created by the Fishery Conservation and Management Act of 1976, California fishermen, fish processors, and state fishery managers have been frustrated in their attempts to harvest and manage the state's fishery resources because of the decisions and management plans issued by the council; and

WHEREAS, California has never had a representative voice in the council's decisionmaking process in spite of this state's predominate position with regard to total tonnage, value of landings, the number of separate fisheries, the number of state fishermen, and the length of the state's coastline; and

WHEREAS, California's $1 billion fishing industry is and has been unduly burdened by management decisions of a council in which California currently has a four to nine voting disadvantage to the northwest states; and

WHEREAS, A better and more equitable approach for all the states involved is the creation of a new fishery management council for the fisheries seaward of California; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation to establish a new fishery management council, the South Pacific Fishery Management Council, consisting of seven members representing the States of California (five members), Oregon (one member), and the National Marine Fisheries Service, and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 111

Assembly Joint Resolution No. 67—Relative to the Coast Guard's Vessel Traffic Service on San Francisco Bay.

[Filed with Secretary of State August 22, 1984.]

WHEREAS, The Harbor Masters and Port Captains Association has met, conferred, and agreed that the Coast Guard's Vessel Traffic Service directed over 65,000 vessel movements in San Francisco Bay

in 1981; and

WHEREAS, The direction provided by the Vessel Traffic Service provided essential safety services for vessels using the bay, its ports and harbors, and inland delta ports; and

WHEREAS, The United States Department of Transportation, from time to time, announces cutbacks in the funds for the Vessel Traffic Service, which is a major factor in avoiding ship collision; and

WHEREAS, There is no alternative system for navigation, direction, and control of marine traffic which could immediately replace the Vessel Traffic Service; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the United States Department of Transportation to maintain funding for the Coast Guard to operate the Vessel Traffic Service on San Francisco Bay; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of Transportation.

RESOLUTION CHAPTER 112

Assembly Joint Resolution No. 95—Relative to the Coastal Zone Management Act of 1972.

[Filed with Secretary of State August 22, 1984]

WHEREAS, The Coastal Zone Management Act of 1972, as amended, ("CZMA" 16 U.S.C. Sec. 1451 et seq.) was enacted to encourage the coastal states of this nation to establish and carry out effective and enforceable coastal management programs, for the purpose of preserving, protecting, beneficially using, and developing coastal resources in a manner that promotes local, state, and national interests; and

WHEREAS, CZMA provides for incentives, including financial aids through grants to coastal states, and requires that, once a state coastal program has been certified by the Secretary of Commerce as being in conformity with this federal act, all federal agencies conducting or supporting activities including leasing or other Outer Continental Shelf activities which affect the state's coastal zone, to carry out those activities in a manner consistent with the approved coastal management program of the state; and

WHEREAS, The people of this state approved Proposition 20 in 1972, and the California Legislature enacted the California Coastal Act of 1976, on the understanding that the CZMA authorizes states with federally approved coastal management programs to review

federal activities, occurring outside the coastal zone as defined in the CZMA, which affect the state's coastal zone for consistency with its own coastal program; and

WHEREAS, This state and the United States Government have spent in excess of fifty million dollars ($50,000,000) to prepare, adopt, and implement a comprehensive, effective, and enforceable coastal management program, which was approved by the United States Department of Commerce in 1977; and

WHEREAS, California's coastal program established a unique partnership between state and local governments which imposed substantial burdens on local governments on the assumption that those burdens constituted a necessary trade-off for the increased role local governments would be given in the review of federal activities having impacts on state and local coastal resources; and

WHEREAS, The State of California and its local coastal governments have made good progress in completing local coastal programs required by the California Coastal Act of 1976, and the California Coastal Commission has, in numerous cases, exercised the federal consistency review authority provided pursuant to CZMA, to ensure that federal activities are conducted in a manner which takes into account, and is protective of, state and local government interest and concerns; and

WHEREAS, This state's experience, in carrying out the federal consistency review provisions, has clearly demonstated that federal activities, occurring both within and outside the state's coastal zone can have significant and far-reaching impacts on California's coastal zone resources; and

WHEREAS, The California Coastal Commission has exercised consistency review over federal activities outside of the coastal zone boundaries only, as required by CZMA, where there are direct significant impacts on the coastal zone resources; and

WHEREAS, The United States Supreme Court has rendered a decision in Secretary of the Interior, et al. vs. California, et al., January 10, 1984, which severely narrows and limits the application of the federal consistency review provisions of the CZMA and which threatens to erode the meaningful and constructive partnerhip that has been established over the past 11 years between coastal states and the federal government; and

WHEREAS, That decision exempts federal oil and gas leasing activities on the Outer Continental Shelf from consistency review requirements, even though at that stage of the oil and gas development process significant effects on coastal zone resources are initiated which cannot be reversed or avoided at a later phase without great costs to oil and gas companies and the public, and even though it is only at the leasing stage that the cumulative effects of multiple leases can be adequately analyzed and coordinated so that meaningful long-range planning can occur; and

WHEREAS, Although the specific issue before the United States Supreme Court dealt with oil and gas leasing activities, the court's

opinion appears to be broad in scope and raises questions about the ability of coastal states to exercise review authority in relation to a wide range of federal activities which occur outside a state's coastal zone boundaries but which have effects within that zone; and

WHEREAS, That decision casts a legal cloud over the ability of coastal states to exercise a meaningful role in federal decisions which affect them and, therefore, threatens the viability of the partnership which had returned to coastal states and local governments some measure of meaningful local control; and

WHEREAS, One direct result of the decision is to create confusion and a situation of legal uncertainty which will result in extensive litigation that will be costly to taxpayers, as well as oil and gas companies; and

WHEREAS, Vital interests of coastal states and local governments are at stake, and there is an urgent need for the Congress of the United States to initiate legislation to resolve the situation of uncertainty and ambiguity caused by that decision of the United States Supreme Court; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorialize the President and Congress of the United States to amend, by urgency legislation, Section 307(c) of the Coastal Zone Management Act of 1972 to make clear that all federal activities, specifically including the sale of leases for mineral extraction such as oil and gas resources are subject to the federal consistency review provisions of that federal act whenever the activities significantly affect the natural resources of, or land or water uses in, the coastal zone, and that all federal license and permit activities are subject to the federal consistency review whenever they significantly affect coastal resources within the coastal zone, unless a federal activity is undertaken to counter the immediate effects of a declared national emergency or it is necessary for reasons of national security; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 113

Assembly Joint Resolution No. 103—Relative to the Older Americans Act.

[Filed with Secretary of State August 22, 1984]

WHEREAS, The Older Americans Act is the governing document for policy direction used to determine how the nation's elderly will be served; and

WHEREAS, California receives the largest allocation of Older American Act funds; and

WHEREAS, California has 3.4 million people over the age of 60, comprising 14.4 percent of the state's population and the nation's largest number of elderly citizens; and

WHEREAS, Approximately 14 percent of older Americans have incomes below the poverty line and another 10—15 percent clustered just above the poverty line; and

WHEREAS, The Older Americans Act and the Older Californians Act call for government assistance to be provided to those seniors in the greatest social and economic need; and

WHEREAS, Many elderly who presently use social and nutritional services provided through Title III of the Older Americans Act are socially and economically needy; and

WHEREAS, These same elderly cannot afford on meager and fixed incomes to pay even minimal costs for these services; and

WHEREAS, Reauthorization of the Older Americans Act is scheduled for 1984; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to resist any attempts to institute a means test or mandatory contribution for services provided under Title III of the Older Americans Act; and be it further

Resolved, That the Commissioner on Aging be directed to deemphasize the Project Income Initiative as far as user contributions are concerned and emphasize program income through a partnership with the private sector; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 114

Assembly Joint Resolution No. 118—Relative to the National Science Foundation.

[Filed with Secretary of State August 22, 1984]

WHEREAS, Engineering plays a major role in the economic well-being of the State of California; and

WHEREAS, California represents over 20 percent of the science,

engineering, and technical capability of the United States; and

WHEREAS, Over 11 percent of all of the engineers educated in the United States receive their education in California institutions; and

WHEREAS, Fundamental engineering research is vital to the national welfare and security; and

WHEREAS, Historically, the National Science Foundation has been the principal source of basic scientific research and support of academic programs in the field of science; and

WHEREAS, There is a critical need that engineering education and engineering fundamental research receive increased attention and parity with basic scientific research to permit the United States to maintain its leadership and competitive position in the world market; and

WHEREAS, The current structure of the National Science Foundation limits its mission, with certain exceptions, to basic scientific research and education, thus making it difficult to provide high-level support to engineering research and education; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to modify the National Science Foundation Act of 1950 to increase the foundation's commitment to engineering, in the following ways:

(1) To change the name of the National Science Foundation to the National Science and Engineering Foundation;

(2) To change the name of the Science Board to the National Science and Engineering Board;

(3) To change Section 1862 of Title 42 of the United States Code (Functions) by adding a new function, as follows:

"To initiate and support research fundamental to the engineering process, to strengthen engineering research potential and engineering education at all levels in the various branches of engineering by making contracts or other arrangements (including grants, loans, and other forms of assistance), to support such engineering and educational activities, and to appraise the impact of such research upon industrial productivity and competitiveness and upon the general welfare."

(4) To add the word "engineering" where appropriate, to further emphasize the equal emphasis of science and engineering; and

(5) To expand the qualifications for board membership to include engineering; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Director of the National Science Foundation.

RESOLUTION CHAPTER 115

Assembly Concurrent Resolution No. 163—Relative to the Year of the Ocean.

[Filed with Secretary of State August 24, 1984.]

WHEREAS, The oceans are the major source of water on earth and provide an essential link in the chain of human existence; and

WHEREAS, The ocean environment provides a wealth of products and services, but is increasingly subject to stress caused by population growth, economic development, placement of energy-related facilities, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of living marine resources; and

WHEREAS, The state is a steward of the resources of the regions along our coast, and this stewardship entails a responsibility to match our increased uses of marine resources with an increased vigilance over maintaining the well-being of the marine environment; and

WHEREAS, It is important to educate the people of the state, as the users of ocean products and the beneficiaries of our ocean heritage, about the role the ocean plays in our lives; and

WHEREAS, A commemorative year of the ocean will be used to expand public awareness and knowledge of the importance of the ocean and its resources; and

WHEREAS, The Cities of San Diego and Los Angeles have been designated as among nine cities in the nation in which Year of the Ocean activities are to be centered; now, therefore, be it

Resolved by the Assembly of the State of California, and the Senate thereof concurring, That the one-year period beginning July 1, 1984, and ending June 30, 1985, is designated as the "Year of the Ocean," and that the Members call upon the people of the state to observe this year and day with appropriate ceremonies and activities.

RESOLUTION CHAPTER 116

Assembly Concurrent Resolution No. 166—Relative to the Stringfellow Acid Pits.

[Filed with Secretary of State August 24, 1984.]

WHEREAS, The residents of Glen Avon and other communities located near the Stringfellow Acid Pits have suffered, and are suffering, uncertainties about their most critical health need, the purity of their drinking water; and

WHEREAS, Tests recently taken on the Stringfellow Acid Pit site show the presence of radioactive matter in the groundwater; and

WHEREAS, Bottled drinking water from a tested and secure

source has been provided to approximately 325 households in the immediate vicinity of Stringfellow Acid Pits; and

WHEREAS, The determination of which families receive tested bottled water and which families continue to take drinking water from normal sources is not based upon any recognized scientific analysis, and is not derived from any express statutory or regulatory formula; and

WHEREAS, The water coming from normal community drinking water sources is heavily dependent upon groundwater sources, which may be contaminated with radioactive compounds and other compounds injurious to public health and safety; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Department of Health Services, operating through the regular channels of county government, is hereby requested to increase the availability and distribution of bottled water to all households in the area using drinking water identified and tested by the State Department of Health Services which may be affected by the Stringfellow Acid Pits, and to continue this distribution of bottled water until reliable tests have been completed and the results of these tests assure the community that the drinking water is safe and wholesome; and be it further

Resolved, That the State Department of Health Services is requested to move immediately to devise the most economic means to provide bottled water supplies, such as distributing water to the community through existing retail grocery outlets or by other means of mass distribution; and be it further

Resolved, That the State Department of Health Services is urged to move immediately to implement the provisions of this resolution, since time is clearly of the essence in this issue of public health; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Director of Health Services.

RESOLUTION CHAPTER 117

Assembly Joint Resolution No. 124—Relative to cigarette smoking.

[Filed with Secretary of State August 24, 1984.]

WHEREAS, Cigarette smoking is the largest preventable cause of illness and premature death in the United States, and is associated with the unnecessary deaths of over three hundred thousand Americans annually; and

WHEREAS, Cigarette smoking in the United States is a major cause of cancer of the lung, larynx, oral cavity, and esophagus and is a contributory factor in cancer of the urinary bladder, kidney, and

pancreas; and

WHEREAS, Cigarette smoking is a major cause of chronic bronchitis and emphysema in the United States; and

WHEREAS, Cardiovascular disease accounts for nearly one-half of the deaths in the United States and it is estimated that one-third of the deaths attributed to cardiovascular disease are associated with smoking; and

WHEREAS, Pregnant women who smoke have an elevated risk of miscarriages, stillbirths, and premature births, and giving birth to infants with low birth weight; and

WHEREAS, Quitting or never starting cigarette smoking will reduce an individual's risk of illness or premature death; and

WHEREAS, Cigarette smoking is addictive and is the most widespread example of drug dependence in the United States; and

WHEREAS, Present federal, state, and private initiatives have been insufficient in conveying to the American people information on the adverse health effects of smoking; and

WHEREAS, A new strategy is needed for making Americans more aware of the adverse health effects of smoking; and

WHEREAS, The State of California is prevented by federal law from improving the warning on cigarette labels; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to strengthen the warnings on cigarette labels and permit the states to improve the warnings on cigarette labels; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 118

Assembly Joint Resolution No. 149—Relative to the memorialization of United States forces killed in hostile action in Lebanon.

[Filed with Secretary of State August 24, 1984.]

WHEREAS, The United States government, during the course of history of our country, has caused to be erected monuments to this nation's fallen servicemen; and

WHEREAS, The American Legion is in complete accord with such permanent, visible historical public recordings; and

WHEREAS, Recent events have created a situation wherein such

memorialization again is called upon as a result of the deaths of our brave men ruthlessly killed while on active duty in Lebanon; and

WHEREAS, The deaths of these servicemen are, and should be considered to be, a crime against mankind; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature requests the President and Congress of the United States to memorialize those heroic dead by having their names forever enshrined upon the Marine Monument which depicts the raising of our nation's flag on Mount Surabachi during World War II; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States; and be it further

Resolved, That a copy of this resolution be transmitted to the National Convention of the American Legion to be held August 31 through September 5, 1984, in Salt Lake City, Utah.

RESOLUTION CHAPTER 119

Senate Concurrent Resolution No. 60—Relative to offshore air emissions.

[Filed with Secretary of State August 30, 1984.]

WHEREAS, The federal Outer Continental Shelf Lands Act requires the Department of the Interior to adopt regulations to ensure that offshore energy exploration and development operations do not adversely affect onshore air quality; and

WHEREAS, The State Air Resources Board has issued a report finding that offshore energy exploration and development operations are causing serious onshore air pollution and that emission reductions are needed using pollution control technology and emission offsets; and

WHEREAS, The State of California has filed a lawsuit against the Department of the Interior charging that federal offshore air quality regulations do not adequately protect California's air quality; and

WHEREAS, The Department of the Interior's failure to adopt regulations to adequately control offshore air emissions caused by oil companies threatens public health, increases the likelihood of Environmental Protection Agency sanctions against the state for failure to achieve federal Clean Air Act standards, and will force the state to impose additional, costly air pollution controls on onshore industries; and

WHEREAS, The California Secretary of Environmental Affairs, on behalf of the Governor, has entered into a Memorandum of

Agreement with the Department of the Interior regarding Outer Continental Shelf Lease Sale 73, off the shore of central California, which includes a stipulation for the protection of the state's air quality; and

WHEREAS, The California Legislature is seriously concerned that any state agreement with the Department of the Interior regarding the control of offshore air emissions stipulates that state air quality standards will be fully met, and that monitoring and enforcement measures ensure that result; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Governor, the Secretary of Environmental Affairs, the State Air Resources Board, and the Attorney General of California are requested to take all actions necessary to (1) implement the Outer Continental Shelf Lease Sale 73 stipulation for the protection of air quality in a manner that makes certain that state air quality standards will be fully met, (2) require the use of the best available emission control technologies that are technically feasible and cost-effective, as well as offset techniques, to ensure that state air quality standards are fully met, (3) require the oil industry and the Department of the Interior to carry the burden of proving compliance with state standards, (4) actively monitor and enforce offshore air pollution control requirements in cooperation with locally affected air pollution control districts, (5) seek to impose state air quality requirements on offshore operations authorized by previous OCS lease sales and future sales through continued litigation or other means, and (6) report back to the Legislature periodically on the status of efforts to ensure that offshore energy exploration and development operations do not adversely affect onshore air quality; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Governor, the Secretary of Environmental Affairs, the State Air Resources Board, the Attorney General of California, the Secretary of the Interior, the Director of the Minerals Management Service, the Administrator of the Environmental Protection Agency, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 120

Senate Concurrent Resolution No. 84—Relative to dismissible traffic infractions.

[Filed with Secretary of State August 30, 1984]

WHEREAS, Law enforcement agencies throughout the State of California have adopted a citation form using a dismissible violation format for correctable infractions; and

WHEREAS, State, county, and city governments wish to ensure that these citation forms are used in a uniform manner throughout the state; and

WHEREAS, The Legislature intends that citations using a dismissible infraction format be utilized in a manner consistent with allowing correction of violations without penalty or judicial process; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That a committee be formed to study the use of citations using a dismissible infraction format, and that the committee be comprised of the Commissioner of the California Highway Patrol or the commissioner's designee serving as chair and representatives of the Judicial Council, representatives of local law enforcement agencies, and private industry representatives as appropriate; and be it further

Resolved, That this committee study the use of citations using a dismissible infraction format in the State of California to determine if these citations are being used uniformly and equitably throughout the state; and be it further

Resolved, That the committee is hereby requested to report to the Legislature if it determines that there are inequities present in the use of these citations; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Commissioner of the California Highway Patrol and the Judicial Council.

RESOLUTION CHAPTER 121

Senate Joint Resolution No. 43—Relative to Medicare.

[Filed with Secretary of State August 30, 1984]

WHEREAS, An estimated 2.5 million Americans are currently afflicted with Alzheimer's disease, a chronic, progressive illness which eventually results in the complete mental and physical disability of the victims in its final stages; and

WHEREAS, The incidence of Alzheimer's disease increases with age; and

WHEREAS, The growing elderly population means that there is every reason to expect the numbers of Alzheimer's victims to increase; and

WHEREAS, There is presently no prevention, no cure, and no treatment, and individuals ultimately require constant care; and

WHEREAS, The psychological stress associated with providing prolonged custodial care, and the financial burden resulting from custodial care at home and in institutions can disable whole families, as well as the victims; and

WHEREAS, Caregivers often prolong custodial care at home due to financial considerations and threaten their own emotional, physical and mental well-being, as well as the safety of the victim; and

WHEREAS, To the extent that caregivers suffer emotional, financial and physical impoverishment, public costs are increased when the result is two recipients of aid and services instead of only one; and

WHEREAS, The costs of custodial care in California alone are estimated at $20,000 to $40,000 per year, per patient, and are not covered by private health insurance policies; and

WHEREAS, The costs of custodial care are not reimbursed under Medicare; and

WHEREAS, Medicaid coverage is only available when the family has been impoverished and meets strict eligibility requirements; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to support and enact legislation to amend Title XVIII of the Social Security Act, as amended, regarding health insurance for the aged and the disabled, to allow reimbursement under Medicare for care provided persons with chronic brain disorders; and be it further

Resolved, That legislation be enacted to amend Title XVIII of the Social Security Act, as amended, to allow for reimbursement under Medicare for custodial care at home and in institutions for persons suffering from chronic brain disorders; and be it further

Resolved, That legislation to amend Title XVI of the Social Security Act, as amended, Supplemental Security Income for the Aged, Blind and Disabled, be enacted to eliminate the requirement of a "spend down" of assets in order to be eligible for income maintenance programs such as SSI/SSP, when a spouse becomes permanently and severely brain damaged; and be it further

Resolved, That legislation to commit federal funding and resources in the study of the causes, treatment and cure of chronic brain disorders, such as Alzheimer's disease be enacted; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 122

Senate Joint Resolution No. 58—Relative to ratification of the Genocide Convention.

[Filed with Secretary of State August 30, 1984]

WHEREAS, Since 1948, approximately 89 nations have become parties to the Genocide Convention, including three of the permanent members of the United Nations Security Council (France, the United Kingdom, and the Soviet Union); and

WHEREAS, The United States actively participated in drafting the terms of the convention and in securing its adoption by the United Nations General Assembly, and although the Genocide Convention was signed for the United States by President Truman on December 11, 1948, the convention has, nonetheless, never been ratified by the United States Congress; and

WHEREAS, President Kennedy in 1963 and President Johnson in 1965 made statements in support of ratification; the late Chief Justice of the United States Supreme Court, Earl Warren, advocated ratification in 1968; President Nixon in 1970, joined by the Attorney General and Secretary of State, urged ratification; the Foreign Relations Committee reported the Genocide Convention to the Senate in 1970 with a recommendation that it be ratified subject to three understandings and a declaration, and this recommendation was repeated to the Senate in 1971, 1973, and 1976; the House of Delegates of the American Bar Association voted in 1976 to support the Genocide Convention; and in 1977 President Carter advised ratification; and

WHEREAS, Provisions of United States law specifically support human rights, for example, subdivision (a) of Section 2151 of Title 22 of the United States Code which reads, in part, "The Congress declares that the individual liberties, economic prosperity and security of the people of the United States are best sustained and enhanced in a community of nations which respect individual civil and economic rights and freedoms ..."; and

WHEREAS, Federal courts have referred to the usage and practice of the United States in determining whether certain acts are in violation of international law and, for example, in the 1980 case of Filartiga v. Pena-Irala, a torture suit, the Second Circuit referred to a Department of State report which said "There now exists an international consensus that recognizes basic human rights and obligations owed by all governments to their citizens ..."; and

WHEREAS, In spite of all this, the United States has failed to fulfill the obligation owed to its own citizens by ratification of the Genocide Convention even though the various issues raised in Senate debate since 1949 have been adequately resolved or satisfactorily addressed, and it is now time for the United States to join with the world community in officially recognizing that genocide is a heinous

proscription of universal human rights; now, therefore, be it

Resolved, by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to support and ratify the Genocide Convention; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 123

Assembly Concurrent Resolution No. 99—Relative to Joint Rule 11.

[Filed with Secretary of State August 31, 1984.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That Rule 11 is added to the Temporary Joint Rules of the Senate and Assembly for the 1983–84 Regular Session, to read as follows:

Printing of Amendments

11. (a) All bills amended by either house shall be immediately reprinted. Except as otherwise provided in subdivision (b), if new matter is added by the amendment, the new matter shall be printed in italics in the printed bill; if matter is omitted, the matter to be omitted shall be printed in strikeout type. When a bill is amended in either house, the first or previous markings shall be omitted.

(b) If amendments to a bill, including the report of a committee on conference, are adopted that omit the entire contents of the bill, the matter omitted need not be reprinted in the amended version of the bill. Instead the Secretary of the Senate or the Chief Clerk of the Assembly, as the case may be, may select any such amended bill and cause to be printed a brief statement to appear after the last line of the amended bill identifying which previously printed version of the bill contains the complete text of the omitted matter.

RESOLUTION CHAPTER 124

Assembly Concurrent Resolution No. 119—Relative to health care costs.

[Filed with Secretary of State August 31, 1984]

WHEREAS, Health care costs have continued to escalate at a greater rate than the consumer price index rate of inflation; and

WHEREAS, Over 15 percent of the gross national income is spent on health care, and over 30 percent of the income of senior citizens is spent on health care; and

WHEREAS, There is a need to restrain the escalation of health care costs; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That the Governor is respectfully requested to convene a task force to study the most cost-effective means to limit the annual increase in health care costs and report its findings to the Legislature. The members of the task force should include a variety of health care experts and lay persons who would present the problems of the elderly with escalating health care costs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor.

RESOLUTION CHAPTER 125

Assembly Concurrent Resolution No. 126—Relative to the floodwaters of Tulare Lake.

[Filed with Secretary of State August 31, 1984.]

WHEREAS, Much of the former bed of Tulare Lake is now farmed; and

WHEREAS, Excess floodwaters entering the lake can remove farmland from agricultural production; and

WHEREAS, In 1983 excess floodwaters of the lake were pumped over a low rise into the San Joaquin River system, to the Sacramento-San Joaquin Delta, and through the Carquinez Straits into San Francisco Bay; and

WHEREAS, The Department of Water Resources has already undertaken a reconnaissance level study that indicated that pumping floodwaters from the Kings River into the California Aqueduct may be economically beneficial to the state water project and those farming in the Tulare Lake Basin; and

WHEREAS, The state water project needs additional water; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Water Resources, in cooperation with affected water agencies, is requested to evaluate the use by the state water project of the excess floodwaters of Tulare Lake; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of

this resolution to the Director of Water Resources.

RESOLUTION CHAPTER 126

Assembly Concurrent Resolution No. 134—Relative to the William D. Abarr Memorial Bridge.

[Filed with Secretary of State August 31, 1984]

WHEREAS, William D. Abarr, a heavy equipment operator for the Department of Transportation, died January 25, 1983, as a result of a massive mudslide on State Highway Route 299 in Trinity County; and

WHEREAS, At the time of his death, he was operating earthmoving equipment which was clearing a slide from Route 299 when another mudslide swept his equipment off the highway; and

WHEREAS, Mr. Abarr joined the department in March 1973 after working for the Trinity County Department of Public Works for 13 years; and

WHEREAS, He was a conscientious employee who would go the extra mile to do a good job and was responsive to emergency calls to sand icy areas, to remove rocks or slides, and to do other needed emergency work; and

WHEREAS, Mr. Abarr is survived by his wife, Barbara, and six grown children; and

WHEREAS, He was a member of the Loyal Order of Moose Lodge in McKinleyville, the Trinity Valley Grange, and the Willow Creek Bigfoot Lions Club, and was a valued member of his community; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Cedar Flat Bridge under construction on State Highway Route 299 in Trinity County at post mile 13.9 between Burnt Ranch and Del Loma be designated the William D. Abarr Memorial Bridge; and be it further

Resolved, That the Department of Transportation be directed to determine the cost of appropriate plaques and markers, consistent with signing requirements for the state highway system, showing this official designation and, upon receiving donations from private sources covering that cost, to erect those plaques and markers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 127

Assembly Concurrent Resolution No. 137—Relative to the Hod Benedict Bridge.

[Filed with Secretary of State August 31, 1984.]

WHEREAS, Harold (Hod) Wilson Benedict was an employee of the Department of Transportation for 35 years; and

WHEREAS, Mr. Benedict served as a resident engineer on nearly 40 projects in Humboldt and Mendocino Counties from 1952 to 1975, which cost approximately $60 million to construct; and

WHEREAS, Mr. Benedict was responsible for the completion of over 30 miles of freeway on State Highway Route 101, the Redwood Highway, through the most rugged portions of the Eel River Canyon; and

WHEREAS, Mr. Benedict was instrumental in the emergency restoration of Route 101 in several locations during the floods of 1955 and 1964; and

WHEREAS, During his career, Mr. Benedict distinguished himself as a leader, an innovator, and a teacher, as he taught hundreds of young engineers and highway technicians the first skills they learned in innovative highway construction; and

WHEREAS, Mr. Benedict earned the confidence, respect, and cooperation of the public and other governmental agencies through his participation in local civic and fraternal organizations; and

WHEREAS, The California Highway Commission in 1975 formally recognized Mr. Benedict for his meritorious service to the state and the public; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Eagle Point Viaduct, Bridge No. 4-72 on State Highway Route 101 in Humboldt County, be designated the Hod Benedict Bridge; and be it further

Resolved, That the Department of Transportation be directed to determine the cost of appropriate plaques and markers, consistent with signing requirements for the state highway system, showing this official designation and, upon receiving donations from private sources covering that cost, erect those plaques and markers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 128

Assembly Concurrent Resolution No. 149—Relative to the Willard F. Libby Memorial Highway.

[Filed with Secretary of State August 31, 1984]

WHEREAS, Doctor Willard F. Libby was raised in the Sebastopol area and graduated from Analy High School in Sebastopol in 1926; and

WHEREAS, Doctor Libby received the Nobel Prize in Chemistry in 1960 for developing the "Carbon-14" radioactive dating technique which revolutionized the scientific fields of chemistry, archaeology, and anthropology; and

WHEREAS, Doctor Libby was an outstanding scientist who made many contributions to various fields of scientific knowledge and was a distinguished educator who trained 102 doctors of philosophy in chemistry and taught more than 2,000 graduate and undergraduate students; and

WHEREAS, Doctor Libby was recognized for his outstanding achievements by the National Academy of Sciences, the Royal Swedish Academy of Science, the Hieldelberg Academy of Science, the Bolivian Society of Anthropology, and other distinguished scientific societies throughout the world; and

WHEREAS, Doctor Libby received numerous degrees and awards for his scientific endeavors, including the Columbia University Chandler Medal, the American Chemical Society Award for Nuclear Applications in Chemistry, the Elliott Cresson Medal of the Franklin Institute, the Willard Gibbs Medal, and the Albert Einstein Medal Award; and

WHEREAS, The many accomplishments of Willard F. Libby have brought honor to all of California and particularly to Sebastopol; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That State Highway Route 116 from Sebastopol to Forestville is hereby designated the "Willard F. Libby Memorial Highway"; and be it further

Resolved, That the Department of Transportation be directed to determine the cost of erecting appropriate plaques and markers, consistent with signing requirements for the state highway system, showing this official designation and, upon receiving donations from private sources covering that cost, to erect those plaques and markers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 129

Assembly Concurrent Resolution No. 165—Relative to veterans.

[Filed with Secretary of State August 31, 1984]

WHEREAS, Under recently enacted federal law, a limit will be placed on the sale of Cal Vet bonds, which will be inadequate to meet the projected demand; and

WHEREAS, It is the policy of the Legislature that Cal Vet funding continue at a level adequate to meet demand from veterans applying for home loans; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature respectfully requests the Governor to direct the California Department of Veterans Affairs, in cooperation with the Treasurer of the State of California, to:

(1) Provide for a five-year plan for Cal Vet bond issues to be submitted to the voters commencing with the June 1986 election.

(2) Take all of the following into account in the plan:

(a) The effect of limitations imposed by federal law in 1984.

(b) The projected demand by veterans applying for home loans.

(c) The policy of the Legislature to provide adequate funding to meet the demand from veterans; and be it further

Resolved, That the plan be submitted to the appropriate policy committees of the Legislature on or before June 30, 1985, with updates to be provided annually by June 30 of each year; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor and to the Director of Veterans Affairs.

RESOLUTION CHAPTER 130

Assembly Concurrent Resolution No. 170—Relative to biotechnology.

[Filed with Secretary of State August 31, 1984.]

WHEREAS, California is the intellectual center of the nation's biotechnology industry; and

WHEREAS, Approximately 35% of the nation's biotechnology companies, including the leading companies, are headquartered in California; and

WHEREAS, California companies have already developed products, such as human insulin and proinsulin, and interferon, which have the potential to alleviate human suffering and illness; and

WHEREAS, Biotechnological research is vital to California's agricultural industry, offering prospects of increased production,

vaccines for animal diseases, disease resistant food crops, drought resistant plant strains, and more nutritional foodstuffs; and

WHEREAS, The United States Patent and Trademark Office has received in recent years nearly one thousand patent applications based on biotechnological research; and

WHEREAS, The biotechnology field is growing more competitive, particularly with respect to Pacific Rim and European countries where, according to the Congressional Office of Technology Assessment, private and public companies sometimes benefit from government subsidies; and

WHEREAS, The State of California should explore appropriate methods of assisting the state's biotechnology industry; and

WHEREAS, Numerous federal and state agencies, including the National Institutes of Health and Environmental Protection Agency, the State Department of Food and Agriculture, and the State Department of Health Services, administer environmental and health regulations affecting biotechnology research and applications; and

WHEREAS, These regulations have successfully protected without incident the public's health and safety and the environment during the previous decade of research and commercialization of biotechnology; and

WHEREAS, The manner in which these regulations apply to future biotechnology research and applications is currently unclear, and therefore may potentially create undue and costly delays in the commercialization of many socially beneficial biotechnology products as well as potentially threaten public health and safety; and

WHEREAS, The federal government, through the White House Cabinet Council Working Group on Biotechnology, is currently developing recommendations to coordinate federal regulations as they affect the biotechnology industry; and

WHEREAS, There is a need to expeditiously develop at both the state and federal levels a rational application of existing regulations to provide uniform, flexible, and nonduplicative protections for human health, safety, and the environment, while at the same time removing unnecessary disincentives to research and commercialization of biotechnology; and

WHEREAS, There is a need for California to represent its unique state's interest before appropriate federal bodies acting on matters affecting the promotion and regulation of the biotechnology industry; and

WHEREAS, There is a need for further study of current federal and state regulations affecting the biotechnology industry before conclusions can be drawn regarding such regulations; now, therefore, be it

Resolved, That the State of California views the biotechnology industry in California as one which represents new economic growth, new jobs, new research opportunities, and new means to better the health of both individuals and the state, and as an industry

which fully deserves the encouragement of the state whenever and however; and be it further

Resolved, That the Legislature requests the Assembly Office of Research to conduct a study, to be completed by April 15, 1985, reviewing all existing, pending, and elapsed federal and state regulations affecting the California biotechnology industry so that the California State Legislature can make informed decisions on how to promote the biotechnology industry, while at the same time protecting public health and safety and the environment; and be it further

Resolved, That the Assembly Office of Research and the Senate Office of Research also study incentives being offered by other states and countries to promote the development of the biotechnology industry within those states and countries; and be it further

Resolved, That representatives of the biotechnology industry, environmental organizations, agriculture, and the Legislature are to be identified by the Assembly Committee on Economic Development and New Technologies, the Assembly Office of Research, and the Senate Office of Research to serve as advisors on this study; and be it further

Resolved, That because the Governor's Office is currently surveying the existing state authority to oversee the biotechnology industry, with an eye toward assisting the industry, while protecting the health and safety of all Californians, it is the intent of the Legislature to take these efforts into consideration in this study and to subsequently work in concert with the Governor; and be it further

Resolved, That the Chief Clerk of the Assembly transmit this resolution to biotechnology companies, organizations, and other interested parties in California, as specified by the Assembly Committee on Economic Development and New Technologies.

RESOLUTION CHAPTER 131

Assembly Concurrent Resolution No. 171—Relative to the John G. Veneman Freeway.

[Filed with Secretary of State August 31, 1984.]

WHEREAS, Assemblyman John G. Veneman served as a Member of the Assembly between 1961 and 1969; and

WHEREAS, As both a Stanislaus County supervisor and as the Assembly Member for Stanislaus County he actively supported and helped initiate the projects to upgrade Highway 99 through Modesto and south to Turlock more than 20 years ago; and

WHEREAS, The California Transportation Commission approved the final construction phase of that project on June 29, 1984; and

WHEREAS, John G. Veneman was instrumental in the initiation

and now the completion of this important freeway vital to the agricultural economy of the San Joaquin Valley and to the State of California; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That State Highway Route 99 from Modesto south to Turlock is hereby officially designated the John G. Veneman Freeway; and be it further

Resolved, That the Department of Transportation be directed to determine the cost of appropriate plaques and markers, consistent with signing requirements for the state highway system, showing this official designation and, upon receiving donations from private sources covering that cost, to erect those plaques and markers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 132

Assembly Joint Resolution No. 99—Relative to mortgages.

[Filed with Secretary of State August 31, 1984]

WHEREAS, California will continue to require an increasing supply of mortgage capital to finance development of new homes and the resale of existing homes; and

WHEREAS, The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation purchase mortgages originated by institutional lenders and thereby replenish the funds available to those lenders to make new home loans; and

WHEREAS, The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation only purchase mortgages if the mortgages do not exceed the maximum dollar limits set by federal law; and

WHEREAS, The median value of mortgages originated in California exceeds the national median; and

WHEREAS, The current limitations on the mortgages eligible for purchase by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation affect California's ability to raise mortgage capital; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress and the President of the United States to increase the dollar limit on mortgages eligible for purchase by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United

States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

RESOLUTION CHAPTER 133

Assembly Joint Resolution No. 102—Relative to the pollution and contamination of the New River.

[Filed with Secretary of State August 31, 1984.]

WHEREAS, The New River, which originates in Mexico and flows northward across the International Boundary into California's Imperial Valley, is the most contaminated stream in the United States relative to its flow, a gross public health hazard, and an aesthetically repulsive spectacle to over 40,000 United States residents of communities along the river's course, as well as to visitors from the nearby metropolitan centers; and

WHEREAS, Contaminated waters of the New River discharge into the Salton Sea, a condition incompatible with the ecology and the varied public uses of that body of water in one of southern California's most important recreational areas; and

WHEREAS, Contamination of the New River is caused by uncontrolled discharges of raw and inadequately treated sewage, highly toxic industrial chemical wastes, solid wastes, geothermal wastes, leaching from a major garbage dump, slaughterhouse wastes, and other wastes discharged by the municipal government and industries within or near the City of Mexicali in Mexico; and

WHEREAS, Contaminating discharges from the vicinity of Mexicali, Mexico, have continued for a recorded period of over 40 years, during which time the city's population has increased to approximately 750,000, while the area has developed into a major industrial center; and

WHEREAS, The magnitude of the resulting waste discharge is comparable to that from a city the size of San Francisco, if that city's sewage and industrial waste could be imagined as flowing untreated in an open channel through urban and rural areas; and

WHEREAS, Mexicali's sewer system, which covers only a portion of the city and which includes two pumping stations and treatment lagoons, has not been expanded and improved sufficiently to keep pace with the very rapid growth of Mexicali and its increasing industrial developments, and Mexican authorities have not adequately maintained the facilities so that there are frequent breakdowns; and

WHEREAS, In order to elevate New River water quality to standards required for comparable streams in the United States,

numerous problems must be addressed, and an explanation of the entire array of problems to be addressed can only be determined following studies by the Environmental Protection Agency in coordination with California state agencies and in cooperation with authorities of the United Mexican States; and

WHEREAS, A preliminary indication of the problems to be addressed are as follows:

(a) Elimination of all point-source discharges of raw sewage into the New River, particularly the eight major sources presently identified.

(b) Relocation and sewering of unsewered residences situated along the banks of the New River and its tributaries.

(c) Enforced prohibition against septic tank pumpers discharging their tank contents into the New River system.

(d) Upgrading and effective operation of pumping plants No. 1 and No. 2 of Mexicali's sewer collection system, so that no raw sewage, under any circumstances, is bypassed into the New River system.

(e) Replacement of deteriorating sewer pipelines along Mexicali's north and south collectors to eliminate breaks that result in raw sewage discharges into the New River system.

(f) Upgrading of Mexicali's sewage treatment lagoons to provide a secondary level of treatment.

(g) Segregation and separate treatment of domestic wastes from toxic industrial wastes presently being discharged to Mexicali's sewer system.

(h) Prevention of all untreated or inadequately treated industrial wastes from spillage into the New River and its tributaries.

(i) Prevention, by any means necessary, of the discharge of wastes from slaughterhouses, hog farms, and dairies into the New River and its tributaries.

(j) Relocation of Mexicali's landfill garbage dump away from the New River and its tributaries.

(k) Rerouting of geothermal wastewater away from the New River system; and

WHEREAS, The quickest and least costly procedures to correct current pollution problems are source-controls within Mexicali, but history confirms that Mexico's federal, state, and municipal governments have been incapable of effectively imposing these controls; and

WHEREAS, The Hazardous Substance Account ("California Superfund") may be used for remedial and removal actions concerning hazardous substances polluting water resources, including the New River; and

WHEREAS, Since the New River is the second most toxic river in the United States and the the most toxic river in California, the New River should be listed as a site on the California Superfund priority ranking list, which will make the river eligible for remedial and removal action funded in part by the California Superfund and will

also allow federal funds to be used to carry out the actions, stated above; and

WHEREAS, The President of the United States and the President of the United Mexican States signed an agreement on August 14, 1983, titled "Agreement Between the United States of America and the United Mexican States on Cooperation for the Protection and Improvement of the Environment in the Border Area," Article 8 of which designates the Environmental Protection Agency as the national coordinator for the United States; and

WHEREAS, It is the obligation of the United States government, on behalf of the residents of Imperial Valley, to obtain adequate correction of the gross pollution and contamination of the New River from discharges within Mexico; now, therefore, be it

Resolved, By the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to appropriately recognize and declare that a clear and present threat to public health and safety exists in the Imperial Valley of California as a direct consequence of continuing toxic contamination and organic pollution of the New River, originating within Baja California, Mexico, requiring immediate and comprehensive mitigation through cooperative international initiatives; and be it further

Resolved, That the President is respectfully requested to immediately direct the Secretary of State and the Administrator of the Environmental Protection Agency, in cooperation with authorities of the State of California, the California Regional Water Quality Control Board (Colorado River Basin Region), and the County of Imperial, to expedite the development of alternative proposals and a recommended plan for halting the flow of contaminants and pollutants in the New River from both Baja California and California sources; and be it further

Resolved, That the Congress is respectfully requested to appropriate, and the President is respectfully urged to allocate and direct, sufficient federal funding, staffing, and technical resources for the implementation and completion of an effective water quality control system within the New River watershed, with the active cooperation of the government of the United Mexican States; and be it further

Resolved, That the Legislature also requests the State Department of Health Services to list the New River on the priority ranking of sites pursuant to the Carpenter-Presley-Tanner Hazardous Substance Account Act, so that federal funds can be used to finance these requested actions to clean up the New River; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the State Director of Health Services.

RESOLUTION CHAPTER 134

Assembly Joint Resolution No. 106—Relative to the Gorda Ridge Lease Sale.

[Filed with Secretary of State August 31, 1984.]

WHEREAS, The United States Department of the Interior is proposing to open major portions of the outer continental shelf along the northern California coastline for hard-rock mineral leasing as of August 1984 under the title of the Gorda Ridge Lease Sale; and

WHEREAS, Whether or not the United States Department of the Interior has jurisdictional authority over the Gorda Ridge is a matter of dispute because the Gorda Ridge may not be on the continental shelf as that term is defined by accepted domestic and international standards; and

WHEREAS, The management of the outer continental shelf is to be conducted in a manner which considers economic, social, and environmental values, as well as the potential impact of development on the marine, coastal, and human environment, in accordance with the Outer Continental Shelf Lands Act Amendments of 1978, the National Environmental Policy Act of 1969, and the Federal Coastal Zone Management Act of 1972, as amended; and

WHEREAS, The United States Department of Interior has identified a number of severe deficiencies in scientific information available about the areas proposed for leasing under the Gorda Ridge Lease Sale, and has formulated plans to begin appropriate scientific studies during the 1985 fiscal year, and is seeking funds for these studies; and

WHEREAS, Adequate scientific information is necessary in order to provide a basis for a reasoned decisionmaking process with regard to the Gorda Ridge Lease Sale; and

WHEREAS, The Gorda Ridge Lease Sale planning process calls for an accelerated decisionmaking timetable which will not permit the necessary scientific studies to be completed in a timely fashion to ensure that the proposed mining operations will not threaten the health and productivity of the marine environment and will not adversely impact coastal communities; and

WHEREAS, Minerals of strategic importance to the United States are not expected to be located within the Gorda Ridge Lease Sale area but, rather, common minerals which are readily available from onshore sources are the target of the sale; and

WHEREAS, Biological resources of importance to the economic productivity of the coastal region could be adversely impacted by undersea mining operations proposed for the Gorda Ridge Lease Sale area; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, that the Legislature of the State of California memorializes

the President and the Secretary of the Interior to delay the Gorda Ridge Lease Sale for a period of at least five years to permit the gathering and analysis of scientific data necessary as a basis for reasoned leasing decisions; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the United States Department of the Interior, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 135

Assembly Joint Resolution No. 115—Relative to Supplemental Security Income benefits.

[Filed with Secretary of State August 31, 1984]

WHEREAS, The government of the Federal Republic of Germany established a Holocaust victims reparation program to compensate victims of Nazi war crimes; and

WHEREAS, The United States government excludes such reparation payments from federal income taxes; and

WHEREAS, The United States government has established the Supplemental Security Income (SSI) program to aid needy, aged, blind, and disabled persons; and

WHEREAS, The courts have found that, barring specific Congressional legislation, Holocaust reparation funds shall be included in a person's income for the purpose of determining SSI eligibility; and

WHEREAS, It has been demonstrated that there are needy Californians who are Holocaust victims who are currently being deprived of SSI benefits because their reparation payments cause them to be found ineligible for SSI; and

WHEREAS, The Honorable Henry Waxman, Member of the United States House of Representatives from California, has introduced HR 6291 to provide that reparation payments received from the Federal Republic of Germany by Holocaust survivors shall not be considered income for the purpose of determining eligibility for SSI benefits; now, therefore, be it

Resolved, by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California memorializes the President and Congress of the United States to support and enact HR 6291; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each

Member of Congress in the California delegation.

RESOLUTION CHAPTER 136

Assembly Joint Resolution No. 119—Relative to federal and state income taxes.

[Filed with Secretary of State August 31, 1984]

WHEREAS, The prompt and accurate reporting of income and the timely payment of federal and state taxes thereon by the citizens of this nation and this state are goals which are of vital concern to both the government of the United States and the government of the State of California; and

WHEREAS, The accomplishment of those goals would be greatly facilitated by increasing the availability to taxpayers of the necessary tax forms and tax instruction publications produced by taxing agencies of those governments; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature urges the Franchise Tax Board to make available to California taxpayers at its various offices throughout the state copies of all of the federal income tax forms and federal income tax instructions publications which are commonly used by taxpayers; and be it further

Resolved, That the Legislature respectfully memorializes the President and the Congress of the United States to direct the Internal Revenue Service to make available to California taxpayers at its various offices located within this state copies of all of the California income tax forms and California income tax instructions publications which are commonly used by taxpayers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Francise Tax Board, to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Member of Congress in the California delegation.

RESOLUTION CHAPTER 137

Assembly Joint Resolution No. 121—Relative to federal income taxation.

[Filed with Secretary of State August 31, 1984]

WHEREAS, The laboratory experience is crucial to the education of engineers and scientists; and

WHEREAS, The laboratory environment permits physical

demonstrations, the application of theory and fundamentals to engineering and scientific systems, and the teaching of experimentation and research; and

WHEREAS, The cost of equipping and operating laboratories in postsecondary education is significant, because laboratories must be capable of demonstrating engineering and scientific fundamentals and be current to the state of the art; and

WHEREAS, Much of the equipment utilized in engineering and scientific laboratories is complex and requires specialized talent and test equipment to maintain and repair it properly; and

WHEREAS, Current federal law provides an income tax deduction for a donor of equipment for educational, instructional, and research purposes, but does not provide a deduction for the equipment used to check and test this equipment, nor for donor maintenance or service of this equipment; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation amending the Internal Revenue Code to provide a tax deduction to persons who donate testing equipment and services to maintain and provide upkeep for engineering and scientific laboratory equipment in postsecondary educational institutions; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 138

Assembly Joint Resolution No. 125—Relative to the United States Maritime Fleet.

[Filed with Secretary of State August 31, 1984.]

WHEREAS, The Merchant Marine Act of 1936 calls for a substantial percentage of United States imports and exports to be carried in United States flag vessels; and

WHEREAS, The United States maritime fleet's share of United States trade has been substantially reduced by foreign competition; and

WHEREAS, Other nations subsidize their maritime fleets, which amounts to unfair competition; and

WHEREAS, Congress has called for at least 20 percent of all United States bulk cargo to be carried in United States ships built in United States shipyards; and

WHEREAS, The United States has hundreds of thousands of military personnel and their dependents deployed overseas; and

WHEREAS, The United States Maritime Fleet assists in the support and defense of United States citizens stationed overseas in the name of national defense; and

WHEREAS, The United States Maritime Fleet has insufficient resources to support those isolated Americans in case of a major emergency; and

WHEREAS, The maritime fleets of other nations should not be relied upon to look after our interests; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully requests the President and the Congress of the United States to provide for the planning and resources necessary to establish an effective maritime fleet capable of meeting any contingency; and be it further

Resolved, That the Legislature of the State of California requests the President and the Congress of the United States to propose that by the year 1990, at least 20 percent of all United States cargo overseas trade shall be carried in United States flag vessels made in United States shipyards and that by January 1, 1985, all cargo for United States military personnel be transported in United States flag vessels; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 139

Assembly Joint Resolution No. 146—Relative to regional export licensing offices.

[Filed with Secretary of State August 31, 1984]

WHEREAS, The United States trade deficit is expected to be at least 130 billion dollars by the end of 1984; and

WHEREAS, The total number of export license applications processed by the U.S. Office of Export Services was over 90,000 in 1983, and is projected to be over 110,000 in 1984; and

WHEREAS, The average time necessary to process an export license application is eight weeks; and

WHEREAS, Small- and medium-sized businesses are experiencing increased difficulty with the export licensing system in terms of the time required to process export license applications and in obtaining information about the status of export license applications; and

WHEREAS, Delays in the export licensing process represent a significant nontariff barrier to exports and contribute to the loss of millions of dollars in overseas sales; and

WHEREAS, The California trade deficit went from 2 billion dollars in 1982 to 8.6 billion dollars in 1983; and

WHEREAS, Eliminating long delays in the export licensing process will help to reduce the U.S. and California trade deficits by speeding the flow of exports; and

WHEREAS, California leads all other states in manufactured exports; and

WHEREAS, The value of California's exports exceeded 18 billion dollars in 1981; and

WHEREAS, California export-related employment totaled nearly 1 million jobs; and

WHEREAS, California's exports of electronic components and communications equipment have more than doubled since 1977; and

WHEREAS, One-quarter of the 3,500 to 4,000 weekly telephone calls to the United States Office of Export Services regarding export administration and documentation come from California; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States, and the Department of Commerce and the Department of the Treasury, immediately to initiate measures to locate additional regional export licensing offices, including one in California, in order to increase exports and jobs, facilitate the rapid processing of export license applications and improve communications between export license applicants and the Office of Export Services regarding licensing requirements and the status of individual export license applications; and, to the extent possible, confer with representatives of the State of California, the California Legislature, and that business community involved in international trade, in order to determine what state resources may be available to assist in the establishment of a regional export licensing office in California; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of Commerce, to the Secretary of the Treasury, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 140

Senate Concurrent Resolution No. 88—Relative to the Joint Committee on the State's Economy.

[Filed with Secretary of State September 4, 1984]

Resolved by the Senate of the State of California, the Assembly thereof concurring, as follows:

(1) Notwithstanding the provisions of any prior concurrent resolution affecting these committees, the Joint Committee on the State's Economy and the advisory committees created pursuant to Resolution Chapter 4 of the Statutes of 1980 are continued in existence through January 31, 1986.

(2) The Joint Committee on the State's Economy shall continue to have the powers and duties granted and imposed by the resolutions creating and continuing it.

(3) The committee may expend any funds heretofore or hereafter made available, and further allocations may be made by the Joint Rules Committee.

(4) In accordance with Joint Rule 36.8, any expenditure of funds by the committee shall be made in compliance with policies set forth by, and subject to the approval of, the Joint Rules Committee.

RESOLUTION CHAPTER 141

Senate Concurrent Resolution No. 92—Relative to commending Mayor Tom Bradley of Los Angeles.

[Filed with Secretary of State September 4, 1984.]

WHEREAS, The Honorable Tom Bradley, Mayor of Los Angeles, was instrumental in negotiating, organizing, implementing, and hosting the Games of the XXIIIrd Olympiad in Los Angeles, and, in recognition thereof, he is deserving of highest honors and commendations; and

WHEREAS, Mayor Bradley's interest in the Olympics began in 1932 when he sold newspapers as a child to buy a ticket to the 1932 Olympics in Los Angeles; and

WHEREAS, In 1974, he first sought to bring the Olympics to Los Angeles in 1980, which, while not resulting in a 1980 award, was the act that prompted the initial international interest in Los Angeles as an Olympic host city; and

WHEREAS, His perseverance led to the United States Olympic Committee granting Los Angeles the right to bid for the 1984 contract in 1976, and, because of his efforts, on May 18, 1978, the International Olympic Committee awarded Los Angeles the right to host the 1984 Summer Olympics; and

WHEREAS, With his leadership and guidance, the Olympics were held in Los Angeles at no expense to local taxpayers, brought $3.3 billion to the local and state economy, created 68,000 jobs, and provided an opportunity for 2.5 billion people worldwide to view the Games; and

WHEREAS, Through his assistance and encouragement, community programs such as the Olympic Arts Festival, youth sports, and community beautification were developed and presented as an enhancement to the Olympic experience; and

WHEREAS, Because of his efforts, people throughout the world were given a glimpse of the spirit of the people of the City of Los Angeles, the State of California, and the United States of America, and, as a result, helped to foster a better understanding among all nations; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Honorable Tom Bradley, Mayor of Los Angeles, be commended for his efforts in negotiating to bring the Games of the XXIIIrd Olympiad to Los Angeles, for his leadership in organizing local municipal services to aid in the presentation of the Olympics, for his determined efforts to implement innovative methods to provide athletes and visitors to Los Angeles with a memorable, enjoyable, and peaceful experience, and for his unfailing graciousness as the official host of the Olympic Games; and be it further

Resolved, That the Secretary of the Senate transmit a suitably prepared copy of this resolution to Mayor Tom Bradley.

RESOLUTION CHAPTER 142

Assembly Constitutional Amendment No. 55—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending subdivision (b) of Section 1 of Article XIII A thereof, relating to property taxation.

[Filed with Secretary of State September 7, 1984]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1983–84 Regular Session commencing on the sixth day of December 1982, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the State be amended by amending subdivision (b) of Section 1 of Article XIII A thereof to read:

(b) The limitation provided for in subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on (1) any indebtedness approved by the voters prior to July 1, 1978, or (2) any bonded indebtedness for the

acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition.

RESOLUTION CHAPTER 143

Assembly Concurrent Resolution No. 112—Relative to State Highway Routes 40 and 395.

[Filed with Secretary of State September 7, 1984.]

WHEREAS, The Blue Star Memorial Highway Program was adopted by the National Council of State Garden Clubs, Inc., as a living tribute to the men and women of the nation's armed forces; and

WHEREAS, It is fitting and appropriate that further recognition be accorded the many citizens who have sacrificed for our country; and

WHEREAS, State Highway Route 395 extends from Route 15 near Cajon Pass to the Nevada state line and from the Nevada state line northwest of Reno to the Oregon state line; and

WHEREAS, The designation of State Highway Route 395 as a Blue Star Memorial Highway is sponsored by the Oasis Garden Club of Indian Wells Valley and the California Garden Clubs, Inc., with a marker to be placed at the Coso Rest Stop by the Oasis Garden Club; and

WHEREAS, State Highway Route 40 extends from Route 15 at Barstow to the Arizona state line; and

WHEREAS, The designation of State Highway Route 40 as a Blue Star Memorial Highway is sponsored by the Desert Empire District of Upper Mojave Desert and the California Garden Clubs, Inc., with markers to be placed at the Fenner and Desert Oasis (Newberry) Rest Stops; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That State Highway Routes 40 and 395 be designated as Blue Star Memorial Highways; and be it further

Resolved, That the Department of Transportation be requested to accept the markers placed by the Desert Empire District of Upper Mojave Desert at the Fenner and Desert Oasis Rest Stops on Route 40 as official markers and the marker placed by the Oasis Garden Club at the Coso Rest Stop on Route 395 as an official marker; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of Transportation, the Secretary of the Business, Transportation and Housing Agency, the Oasis Garden Club of Indian Wells Valley, the Desert Empire District of Upper Mojave Desert, and the California Garden Clubs, Inc.

RESOLUTION CHAPTER 144

Assembly Concurrent Resolution No. 118—Relative to Acquired Immune Deficiency Syndrome.

[Filed with Secretary of State September 7, 1984]

WHEREAS, The Legislature finds that as of June 15, 1984, that 1,212 Californians have been diagnosed as having Acquired Immune Deficiency Syndrome (AIDS); and

WHEREAS, 408 deaths in California have been attributed to AIDS; and

WHEREAS, As of May 31, 1984, 57 Americans have contracted AIDS through blood transfusions and 29 of these people have died due to AIDS; and

WHEREAS, AIDS has directly or indirectly touched the lives of thousands of California residents, including those who have been diagnosed to have AIDS, their families and loved ones, medical and mental health professionals, hemophiliacs, recipients of blood transfusions, and members of other at-risk communities, and many others; and

WHEREAS, The misdiagnosis and delayed treatment of this serious illness is often due to the lack of availability of appropriate services and appropriately trained health personnel; and

WHEREAS, The availability and accessibility of quality health care for people with AIDS is woefully inadequate to meet the geometrically increasing caseload of this deadly disease; and

WHEREAS, California has a strong record of accomplishment in the general fields of public health; and

WHEREAS, Although the federal government must shoulder the largest burden of cost in AIDS research, the State of California, within resources that can be realistically made available, can make an important contribution to these efforts; and

WHEREAS, The federal government is currently pursuing efforts to develop a test to screen blood for high risk of AIDS, the state must be able to advise and assist blood banks, hospitals, clinics, and other affected organizations in implementing these medical advancements as quickly and effectively as possible in order to safeguard the public health; and

WHEREAS, While research efforts must continue, the increasing incidence of this disease demands special attention on a statewide basis; and

WHEREAS, The need for a program of state-assisted preventative education in acquired immunosuppressive diseases, in addition to basic and applied research, is clearly indicated; and

WHEREAS, Planning, funding, and implementation of AIDS-related treatment and services is somewhat disjunctive and lacking in coordination; and

WHEREAS, Health professionals in community agencies serving

the at-risk populations have recognized the need for coordination of AIDS-related prevention efforts in the state; and

WHEREAS, The steady growth and development of community agencies focused on AIDS-related prevention and direct support efforts indicate the need for increased focus by the state on AIDS-related loss of health and loss of life; and

WHEREAS, State and local governments must facilitate the sharing and coordination of services by community action agencies; and

WHEREAS, An assessment of the problem of coordination of services and of areas where services are lacking, inadequate, or problematic is needed; and

WHEREAS, It is imperative that a comprehensive program to combat AIDS be implemented through the combined efforts of state and local governments, medicine, universities, nonprofit organizations, and individuals bringing together all possible resources of the state, and coordinating the efforts of the state is a vital matter of public health; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the AIDS Advisory Committee, established by Chapter 1257 of the Statutes of 1983, is requested to meet at least quarterly during the remainder of 1984 and throughout 1985; and be it further

Resolved, That the committee is requested to submit a preliminary report of its findings, conclusions, and recommendations to the Director of the Department of Health Services not later than December 31, 1984, and a final report of its findings, conclusions, and recommendations to the Director of the Department of Health Services not later than June 1, 1985, and to submit with its reports the legislative proposals it deems necessary to implement its recommendations; and be it further

Resolved, That reports shall address, but need not be limited to, the level of AIDS related treatment, services, and preventative health education services available in the state, areas in which these services are lacking, and the level of coordination of these efforts; and the status of state, federal, and private research efforts related to AIDS, and be it further

Resolved, That it is the intent of the Legislature that funds appropriated for the administrative expenses of the AIDS Advisory Committee in the 1984 Budget Act be also used for the costs of the actions requested by this resolution; and be it further

Resolved, That the Director of the Department of Health Services is requested to transmit all reports and recommendations received from the committee pursuant to this measure to the Governor and the Legislature; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the AIDS Advisory Committee and the Director of the Department of Health Services.

RESOLUTION CHAPTER 145

Assembly Concurrent Resolution No. 146—Relative to civil litigation.

[Filed with Secretary of State September 7, 1984.]

WHEREAS, Lawyers, judges, and others connected with the justice system in California recognize that the rules and procedures regarding discovery in civil litigation in this state have resulted in substantial abuses; and

WHEREAS, These abuses have caused an increase in the cost of litigation to clients and have overloaded the courts with proceedings which many feel are unnecessary for the effective administration of justice; and

WHEREAS, In recognition of this problem, a joint committee appointed by the Chief Justice of the California Supreme Court and the President of the State Bar of California has proposed that a commission shall be established with the concurrence and support of the California Legislature to propose statutory changes in the discovery process; the commission would be under the direction of the State Bar of California and the Judicial Council, and would be funded by the State Bar; and

WHEREAS, The proposed commission would be composed of representatives of the legal community and the judiciary, including representatives of the Judicial Council and the Board of Governors of the State Bar; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature express its support of this proposal by authorizing the Speaker of the Assembly and the Senate Committee on Rules to each appoint one person to serve as members of the proposed commission, to the extent that their participation is not incompatible with their positions as Members of the Legislature; and be it further

Resolved, That the Legislature urges that upon its establishment the commission shall complete its work in an expeditious manner in order that any recommendations regarding new legislation may be made by January 1986.

RESOLUTION CHAPTER 146

Assembly Concurrent Resolution No. 160—Relative to transportation.

[Filed with Secretary of State September 7, 1984]

WHEREAS, The San Fernando Valley has a population of 1.5 million persons, a figure which is expected to grow substantially in the coming years; and

WHEREAS, The transportation system which serves this population is nearing its capacity, causing increasingly severe congestion and delays; and

WHEREAS, These problems have been exacerbated by commute traffic from residents of outlying areas who must commute through the San Fernando Valley; and

WHEREAS, There are no new major highways currently anticipated, and expansion of the current highway system will be insufficient to alleviate traffic congestion; and

WHEREAS, Currently proposed transit projects do not appear to adequately address these traffic problems in a cost-efficient manner; and

WHEREAS, Legislative and administrative efforts to solve these problems have been hampered by a lack of a comprehensive, integrated, long-range strategic planning document; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Southern California Association of Governments is hereby requested to conduct a feasibility study of long-range alternative measures to reduce traffic congestion and provide for a well-coordinated transportation system in the San Fernando Valley and report the results of the study to the Legislature by July 1, 1986; and be it further

Resolved, That the Los Angeles County Transportation Commission is hereby requested to establish a San Fernando Valley Transportation Advisory Committee composed of representatives of citizens groups and affected governmental agencies to assist the commission in identifying, reviewing, and evaluating traffic congestion in specific areas and the San Fernando Valley in general, and the various alternatives modes and programs to reduce this congestion; and that the committee have representatives from, but not limited to, the Los Angeles County Department of Roads, the Los Angeles County Transportation Commission, the Valley Industry and Commerce Association, the Valley Transportation Committee, the Ventura Freeway Improvement Coalition, the Transportation Coalition, and representatives of the transportation committees of the Chambers of Commerce throughout the San Fernando Valley and the United Chambers of Commerce; and be it further

Resolved, That the Los Angeles County Transportation Commission use the results of this study to develop recommendations for highway and transit projects as part of the state transportation improvement program and regional transportation improvement program planning process; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Southern California Association of Governments and the Los Angeles County Transportation

Commission.

RESOLUTION CHAPTER 147

Assembly Concurrent Resolution No. 169—Relative to informing parents about child molestation.

[Filed with Secretary of State September 7, 1984.]

WHEREAS, The safety of our children is a primary concern of all Californians; and

WHEREAS, Molestation can cause grave physical and psychological injury to children; and

WHEREAS, The prevention of child molestation can best be accomplished if parents are adequately informed; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Department of Social Services is requested to develop and distribute a parent information pamphlet, which will inform parents about how to prevent child molestation, about the signs of molestation, and about how they can communicate with and examine their children to determine whether molestation has taken place; and be it further

Resolved, That these parent information pamphlets should be printed at state expense, and distributed, without charge, to the parents or guardians of every child enrolled at any licensed child care facility in California; and be it further

Resolved, That the State Department of Social Services is requested to include in the parent information pamphlet a form which will contain a statement indicating that the parent or guardian of the child has read and understood the pamphlet and a place for the signature of that parent or guardian; and be it further

Resolved, That this form should be signed by the parent or guardian of each child enrolled in a licensed child care facility in this state and presented at the time of the enrollment of the child, and that copies of the form be filed with the facility, the appropriate social services agency of that county, and with the Department of Social Services; and be it further

Resolved, That the process, as described herein, of distribution of the pamphlets and of presentation of signed forms at the time of enrollment of the child should become an ongoing program; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Secretary of the Health and Welfare Agency and to the State Director of Social Services.

RESOLUTION CHAPTER 148

Assembly Concurrent Resolution No. 173—Relative to interim studies of the subject matter of AB 3147.

[Filed with Secretary of State September 7, 1984]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the subject matter of AB 3147 of the 1983–84 Regular Session is hereby assigned for interim studies to, respectively, the Assembly Committee on Elections, Reapportionment, and Constitutional Amendments and the Senate Committee on Governmental Organization.

RESOLUTION CHAPTER 149

Assembly Joint Resolution No. 73—Relative to the establishment of a National Academy of Peace and Conflict Resolution.

[Filed with Secretary of State September 7, 1984]

WHEREAS, Our society today is challenged to recognize that war is obsolete and that we must learn to manage conflict without resorting to violence, because regardless of the origin of the conflict, we risk full-scale nuclear war amongst the independent nations; and

WHEREAS, The federal government has four military academies and at least five war colleges whose curricula encompass formal preparations for war, but has not established a single parallel institution to promote peace through nonaggressive means; and

WHEREAS, We must learn more about the roots of conflict, the stages of development of conflict, and design specific types and innovative methods of intervention before we can effectively manage conflict to assure our survival; and

WHEREAS, We have an emerging field of knowledge of conflict management which can prevent a total disaster if responsibility for developing and teaching conflict management skills can be centralized, focused, and stimulated; and

WHEREAS, The Commission on Proposals for the National Academy of Peace and Conflict Resolution has recommended that the National Academy of Peace and Conflict Resolution be established to increase our nation's capability of responding to national and international conflicts and to protect and preserve the life of the citizens of this nation and the world; and

WHEREAS, The United States Peace Academy would be a federally chartered, nongovernmental interdisciplinary institution dedicated to researching and developing realistic plans towards alleviating global conflict; and

WHEREAS, The United States Peace Academy, introduced in the

United States House of Representatives as H.R. 1249 and in the United States Senate as S. 564, is a bold and crucial step towards effective conflict resolution and ultimately a peaceful environment; and

WHEREAS, A United States Peace Academy would not weaken the country's defenses, but rather complement existing arms control negotiations and peacekeeping methods; and

WHEREAS, Participation in the academy's programs will strengthen peace efforts at all levels of society, at both public and private institutions, including specialized schools of diplomacy and military training where traditional departmental alignments often impede cross-disciplinary peace education and innovative training in peacemaking skills; and

WHEREAS, The resolution of conflicts, whether personal, local, national, or international, can best be accomplished by the use of trained personnel, and the systematic use of these skilled peacemakers could save this nation and others countless billions of dollars and untold human suffering; and

WHEREAS, The Peace Academy's immediate impact would demonstrate that the world's most powerful nation does have a genuine interest in, and commitment to peace; and

WHEREAS, Far beyond the immediate impact will be the long-range effect of the Peace Academy as it attracts students from diverse backgrounds, skills, sectors and nations, trains them in the rapidly developing social science of conflict resolution, and sends them back to the growing worldwide pool of expert peacemakers, who can identify and alleviate potential explosion points before eruption; and

WHEREAS, In this way the closed circle of unresolved conflict which breeds more conflict, can be broken, and the spiral directed in a downward course reducing global tension; and

WHEREAS, One of the United States', as well as the world's, most important issues is the subject of peace; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the President and Congress are respectfully memorialized to support and implement a National Academy of Peace and Conflict Resolution dedicated to training persons in peaceful conflict resolution techniques; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 150

Assembly Joint Resolution No. 92—Relative to foreign joint venture fisheries.

[Filed with Secretary of State September 7, 1984.]

WHEREAS, Joint venture fisheries in which United States vessels catch fish in the 200-mile Fishery Conservation Zone and transfer them to foreign processing vessels and directed fisheries in which foreign vessels catch fish in the 200-mile Fishery Conservation Zone are interim measures intended to provide markets until domestic processors are able to provide them; and

WHEREAS, Domestic processing of, and markets for, Pacific whiting are presently being developed; and

WHEREAS, Foreign fish processing vessels dump fish wastes into nearshore waters off the California coast which risks souring of prime fishing grounds; and

WHEREAS, Foreign fishing and fish processing vessels were excluded from waters within 12 miles of shore before 1976; and

WHEREAS, Joint venture fisheries in nearshore waters off the California coast compete with California commercial fishermen, impede the development of domestic processing and markets, and needlessly worsen the United States balance-of-trade deficit; and

WHEREAS, The Pacific Marine Fisheries Commission, which represents the States of California, Alaska, Idaho, Oregon, and Washington, met on November 9, 1983, in Boise, Idaho, and voted to support full phase-in of domestic fisheries by 1990 and to oppose extension of joint venture fisheries south of Point Arena; and

WHEREAS, The Pacific Fishery Management Council met on November 11, 1983, in Boise, Idaho, in spite of the Pacific Marine Fishery Commission action and over the opposition of the State of California, and recommended that the Secretary of Commerce allow an extension of a Soviet-United States joint venture fishery for Pacific whiting south of Point Arena; and

WHEREAS, An extension of the joint venture fishery south of Point Arena would be of no benefit to California, off of which coast it would be located; and

WHEREAS, The stocks of Pacific whiting are less mature the further south they are found along the Pacific coast, and the juvenile fish provide forage for salmon and other valuable commercial and recreational species; and

WHEREAS, A joint venture fishery for Pacific whiting in southern California waters would lead to the incidental catch of Pacific mackerel, a species which is being harvested to maximum allowable biological limits by southern California fishermen; and

WHEREAS, The presence of Soviet fish processing vessels off the central and southern California coast would raise serious national security concerns for the United States; and

WHEREAS, The Pacific Fishery Management Council on January 12, 1984, reversed its recommendation to allow an extension of the joint venture fishery south of Point Arena, but could reverse itself again and once more recommend it; and

WHEREAS, The Pacific Fishery Management Council, meeting on April 12, 1984, in San Francisco and on July 12, 1984, in San Diego, over the opposition of the State of California, recommended establishing Soviet and Polish directed fisheries for Pacific whiting north of Point Arena; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That it is the policy of the State of California to support full phase-in of domestic fisheries by 1990, to exclude foreign fish processing vessels from waters within 12 miles of the California coast, and to prevent any extension of joint venture fisheries south of Point Arena and any directed fisheries off the California coast; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the Secretary of Commerce and the Pacific Fishery Management Council to implement these policies; and be it further

Resolved, That the Legislature memorializes the Secretary of Commerce and the Pacific Fishery Management Council to examine the feasibility of excluding foreign fish processing vessels from waters within 30 miles of the California coast to protect and encourage California fishermen and processors; and be it further

Resolved, That the Department of Fish and Game, in cooperation with the Pacific Marine Fisheries Commission and the Joint Committee on Fisheries and Aquaculture, prepare and submit an annual report to the Legislature by January 1 of each year commencing in 1985, and continuing each year until January 1, 1990, on the progress made toward implementing these policies and these memorials; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of State of the United States, to the Secretary of Commerce, to the Chairperson of the Pacific Fishery Management Council, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States, to the Director of Fish and Game, to the Executive Director of the Pacific Marine Fisheries Commission, and to the Chair of the Joint Committee on Fisheries and Aquaculture of the Legislature.

RESOLUTION CHAPTER 151

Assembly Joint Resolution No. 100—Relative to veterans of Lebanon and Grenada.

[Filed with Secretary of State September 7, 1984]

WHEREAS, The government of the United States, in the interest of international security, has deemed it necessary to place members of its armed forces in Lebanon and on the island of Grenada; and

WHEREAS, The armed forces serving on these foreign shores have engaged in combat with hostile forces; and

WHEREAS, These engagements have resulted in members of the armed forces being wounded or killed in action; and

WHEREAS, The recently enacted Omnibus Tax Reform Act (P.L. 98-369) restricts the eligibility for state-administered veteran home loans such as the Veterans' Farm and Home Purchase Act of 1974, the "Cal-Vet" program, to veterans with active service before January 1, 1977; and

WHEREAS, It has been the policy of the United States government since 1944 to provide members of the armed forces who have served during times of armed conflict with special services and assistance; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the President and Congress is hereby respectfully memorialized to reinstate the Veterans' Readjustment Benefits Act of 1966, with cost-of-living adjustments, for veterans who have served in the Lebanon and Grenada theaters of operation on or after August 25, 1982, until hostilities cease and the United States armed forces are withdrawn; and be it further

Resolved, That the Omnibus Tax Reform Act be amended to permit veterans who have been awarded the Lebanon Expeditionary Medal or the Grenada Expeditionary Medal to be eligible for veteran home loans such as provided under the Cal-Vet program; and be it further

Resolved, That veteran outreach centers and other federally funded counseling services be made immediately available to veterans who have served in the Lebanon or Grenada theaters of operation and to their families; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 152

Assembly Joint Resolution No. 101—Relative to federal income taxation.

[Filed with Secretary of State September 7, 1984]

WHEREAS, The computer software and high technology industries constitute significant assets of the economy of the State of California, providing employment to hundreds of thousands of its citizens; and

WHEREAS, These industries have previously flourished, in part, as the result of a sensible federal tax policy which has permitted them to deduct the costs of developing software in the same manner as research and experimental expenditures that fall within the purview of Section 174 of the Internal Revenue Code of 1954; and

WHEREAS, This previous tax policy, as enunciated by the Internal Revenue Service in Revenue Procedure 69-21, will be reversed by the Internal Revenue Service's promulgation on January 21, 1983, of proposed amendments to Regulation 1.174-2, which would generally deny to computer software development costs the federal tax treatment accorded to research and development expenditures; and

WHEREAS, Those proposed regulatory changes will have the direct effect of singling out the software and high technology industries for increased federal tax liability; and

WHEREAS, Those proposed regulatory changes will have a significant deleterious impact upon those industries, which are already burdened by a heavy dependence on borrowed capital; and

WHEREAS, Those regulatory changes will inevitably force those industries to reduce their research and development expenditures, expenditures which represent a significant factor in permitting them to effectively compete in an ever-changing world market; and

WHEREAS, The reduction of those expenditures will most assuredly threaten or eliminate the present technological lead that those industries operating within the United States concurrently enjoy in the world market; and

WHEREAS, The foregoing results would quite likely force the software and high technology industries to relocate their operations outside the United States, with the consequential loss of thousands of jobs of citizens of this state and nation; and

WHEREAS, The provisions of Section 174 of the Internal Revenue Code of 1954 indicate a federal tax policy in favor of encouraging research and development activity by businesses generally, including the software and high technology industries; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Internal Revenue Service to rescind its proposed amendments to Regulation 1.174-2 in favor of the adoption of

regulations or guidelines which would permit the deduction of computer software development costs for federal income tax purposes in the same manner as permitted for other research and experimental expenditures; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States, in the event that the Internal Revenue Service does not rescind those proposed regulatory amendments, to immediately enact and implement tax legislation which would clearly enunciate that computer software development costs are to be treated as research and experimental expenditures for federal income tax purposes; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 153

Assembly Joint Resolution No. 113—Relative to the Social Security Act.

[Filed with Secretary of State September 7, 1984]

WHEREAS, More than 4 million Californians are over the age of 60, and more than 2.5 million Californians are over the age of 65; and

WHEREAS, More than 3.1 million Californians who are aged or disabled, or who are survivors or dependents of persons eligible for Social Security benefits, depend for their survival on the Social Security System; and

WHEREAS, The National Commission on Social Security Reform will present a report and recommendations to the President and Congress on or before the end of this year; and

WHEREAS, The solution to the problem of containing costs should not be future cuts in benefits provided by the Social Security System; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature respectfully memorializes the President and the leadership of the Congress of the United States to assure the senior citizens of this state and this country that no efforts will be made to enact major changes in the benefit or financing structure of the Social Security System in this session of Congress, and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each

Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 154

Assembly Joint Resolution No. 114—Relative to California's air transportation system.

[Filed with Secretary of State September 7, 1984.]

WHEREAS, One of the most significant issues facing California air transportation in the coming decade will be the decay of the state's public use airport system and the need to secure adequate, long-term funding to preserve and enhance the existing airport system; and

WHEREAS, Thirty-eight percent of California's airports will reach or exceed their original design life within 10 years; and

WHEREAS, This figure will increase to 80 percent in 15 years; and

WHEREAS, Current state and federal airport aid programs may be able to maintain or rehabilitate only 20 percent of the affected air facilities; and

WHEREAS, Without adequate funding, 170 California public use airports will deteriorate to unacceptable levels; and

WHEREAS, Funding shortfalls for both air carrier and general aviation airports for the 1984–88 period are projected to be nearly $1.3 billion; and

WHEREAS, California accounts for 18 percent of the nation's total air carrier passenger activity, generating in excess of $360,000,000 annually into the Federal Aviation Trust Fund; and

WHEREAS, The return to California of federal airport trust funds averages approximately $40,000,000 per year; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President, the Congress, and the Secretary of Transportation to recognize the pending crisis facing California's air transportation system and to take all appropriate action to increase the amount of California aviation tax dollars returned to the state to assist in preserving and enhancing that system; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Transportation, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 155

Assembly Joint Resolution No. 117—Relative to Filipino veterans of the United States Armed Forces.

[Filed with Secretary of State September 7, 1984]

WHEREAS, During World War II, approximately 175,000 citizens of the Philippine Islands served with the armed forces of the United States with assurances of United States citizenship in return for this wartime service; and

WHEREAS, Many of these Filipino veterans are unable to provide definitive proof of service in the United States armed forces and of their application for United States citizenship during the required application period due to the long lapse of time; and

WHEREAS, As a result of this situation, over 1,600 of these Filipino veterans of the United States armed forces are now being threatened with deportation because of the unyielding pursuit of these cases by the United States Immigration and Naturalization Service on grounds of inadequate documentation and other technicalities; and

WHEREAS, Most of these persons are now at retirement age or beyond, and the threat of deportation represents a great personal hardship; and

WHEREAS, This pursuit of deportation proceedings against these veterans who served in the defense of this country amounts to a great injustice; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to direct that the actions of the United States Immigration and Naturalization Service against these Filipino veterans of the United States armed forces who served during World War II be discontinued forthwith and that appropriate action be taken to grant United States citizenship to these persons; and be it further

Resolved, That copies of this resolution be transmitted to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the United States Immigration and Naturalization Service.

RESOLUTION CHAPTER 156

Assembly Joint Resolution No. 130—Relative to pesticides.

[Filed with Secretary of State September 7, 1984]

WHEREAS, Agriculture is California's leading industry, providing a vital link in a chain, either directly or indirectly, involving millions of Californians in getting food from the farmers' fields to the consumers; and

WHEREAS, California's agricultural productivity forms the cornerstone of the state's economy, contributing over 14 billion dollars in gross farm receipts from the production of 250 different crops and livestock products; and

WHEREAS, California is the leading agriculture producing state in the United States, and California's food and fiber is a vital ingredient in our strength as a nation, both domestically and internationally; and

WHEREAS, The sound use of agricultural chemicals is vital to the continued growth and well-being of California's agricultural industry; and

WHEREAS, The Environmental Protection Agency (EPA) has the responsibility for registering pesticides for use in the United States; and

WHEREAS, The California Legislature has, over the years, expanded the pesticide regulatory program in the State Department of Food and Agriculture to meet the needs and concerns of this state's citizens; and

WHEREAS, The department has the most comprehensive pesticide regulatory program in the nation with an annual cost of approximately 20 million dollars, which places a financial burden on California; and

WHEREAS, Bills are before the California Legislature that require pesticide registrants to provide the department with chronic and birth defect studies for all pesticide active ingredients; and

WHEREAS, California's expansion of data and study requirements for pesticides put the formulators, that serve California's specialty crops, under a costly burden that could result in the loss of needed pesticides that fit into pest management programs; and

WHEREAS, California's specialty crops are essential elements in the state's agricultural economy and are dependent upon the availability of a wide variety of pest control materials; and

WHEREAS, Many pesticides are not covered by propriety rights, and therefore no company can be assured of receiving benefits from funding required studies; and

WHEREAS, State pesticide data requirements bring the problem-riddled data compensation issue to the state level; and

WHEREAS, State data requirements increase the burdens on pesticide registrants, increase duplication of effort between the state and the EPA, and increase nonuniformity between state and federal data requirements; now, therefore, be it

Resolved, by the Assembly and Senate of the State of California, jointly, That the Legislature respectively memorializes the Administrator of the Environmental Protection Agency to expedite the call-in and evaluation of data to support the registration of pesticides with an emphasis on health related data, including, but not

limited to, chronic and birth defect studies, and to provide this data to the Director of the California Department of Food and Agriculture, upon the director's request and with the director's assurance that trade secrets will be adequately protected, and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Administrator of the Environmental Protection Agency.

RESOLUTION CHAPTER 157

Assembly Joint Resolution No. 132—Relative to the 1985 federal farm bill.

[Filed with Secretary of State September 7, 1984]

WHEREAS, Agriculture is California's most important industry, with economic impact on the entire state; and

WHEREAS, California is the nation's leading agricultural state producing more than 250 different food and fiber commodities; and

WHEREAS, Many past federal farm programs have not been successful in meeting marketplace realities and in solving problems of surplus production; and

WHEREAS, There is a need to fashion a federal farm bill that addresses regional needs and focuses on a strong comprehensive national agricultural policy that benefits both the consumer and the farmer; and

WHEREAS, California's unique array of specialty crops presents this state with a different set of domestic and international problems than the rest of the nation; and

WHEREAS, These factors result in California agriculture having specific problems and circumstances that should be adequately addressed in the federal farm bill; and

WHEREAS, The Chairman of the Committee on Agriculture of the United States House of Representatives held a field hearing in California and received testimony from this state's residents on the unique problems facing California agriculture that should be addressed in the 1985 federal farm bill; and

WHEREAS, A new federal farm act will be drafted and adopted in 1985; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to recognize this state's needs in the 1985 federal farm bill; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Chairman of the Committee on Agriculture of the United States House of Representatives and to each Senator and

Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 158

Assembly Joint Resolution No. 136—Relative to refugees.

[Filed with Secretary of State September 7, 1984]

WHEREAS, California has become the home for almost 50 percent of all refugees resettled in the United States, more refugees than at least the next eight most heavily impacted states combined; and

WHEREAS, The human services programs of this state, its counties, and municipalities have been severely impacted as a result of this large concentration of refugees; and

WHEREAS, The goal of economic self-sufficiency is not the total responsibility of state and local governments; and

WHEREAS, Targeted assistance funds have been provided by Congress to alleviate the fiscal and social impact on state and local governments; and

WHEREAS, House Resolution 3759 instructs the Office of Refugee Resettlement in the United States Department of Health and Human Services to allocate targeted assistance on the basis of a county's total refugee population, not just those refugees who have been in the United States for three years or less; and

WHEREAS, The Office of Refugee Resettlement has ignored this directive and published an allocation formula for the 1984 fiscal year which utilizes targeted assistance moneys to supplement other refugee programs; and

WHEREAS, The Office of Refugee Resettlement has proposed limiting the use of targeted assistance solely for the support of employment and employment-related services; and

WHEREAS, There are other important services which strengthen the foundations of this population which have fiscal and social impacts on programs such as mental health, health care, criminal justice, and educational systems; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature memorializes the President and Congress of the United States and the Secretary of the United States Department of Health and Human Services to take whatever action is necessary in order to withdraw the proposal to utilize targeted assistance funds for refugees in the 1984 fiscal year to supplement other refugee programs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States and to the Secretary of the United States Department

of Health and Human Services.

RESOLUTION CHAPTER 159

Assembly Joint Resolution No. 137—Relative to veterans' benefits.

[Filed with Secretary of State September 7, 1984.]

WHEREAS, 44,000 California veterans and eligible dependents receive education and training under Veterans' Administration educational programs, which totalled more than $161,000,000 in monetary benefits in 1983; and

WHEREAS, The Veterans' Administration's current educational enrollment certification procedure required to be performed by California schools allows veteran students to be certified for complete school years; and

WHEREAS, This procedure has proven to be between 93 and 95 percent effective in preventing overpayments while providing consistent, timely payment of benefits; and

WHEREAS, The Veterans' Administration intends to alter this successful system in the fall of 1984 to require term-by-term recertification no sooner than the first day of each school semester, trimester, or quarter; and

WHEREAS, The two-, three-, or four-fold increase in workload, which, in disregard of the Paperwork Reduction Act of 1980, will create severe hardships for veterans attending college in California through backlogs and long delays in educational benefits payments which the majority of veteran students depend upon to pay for school fees and related expenses; and

WHEREAS, Colleges and universities nationwide have protested to the Veterans' Administration that this new system will multiply their paperwork requirements; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the President and Congress of the United States are respectfully memorialized to direct the Veterans' Administration to reverse its announced policy of requiring term-by-term recertification of veteran students and to reinstitute its current education enrollment certification procedure by which eligible veteran students are certified for complete school years; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Veterans' Administration.

RESOLUTION CHAPTER 160

Assembly Joint Resolution No. 139—Relative to supercomputer centers.

[Filed with Secretary of State September 7, 1984.]

WHEREAS, The erosion of the United States' position as a world leader in science, engineering and technology has become a matter of national concern; and

WHEREAS, If the United States is to avoid erosion of its position as a world leader in these fields, access to sophisticated computer hardware systems must be ensured; and

WHEREAS, It is also vitally important that the United States continue to produce scientists and engineers who have had experience with supercomputers; and

WHEREAS, Proposals are being submitted to the National Science Foundation for the establishment of a national supercomputer center at the University of California; and

WHEREAS, Due to this state's vital role in the development of this nation's computer technology, it would be of immense value both to this state and to the nation to establish a supercomputer center at the University of California; and

WHEREAS, The establishment of this supercomputer center would allow many individuals, in a university research setting, to acquire the greatly needed hands-on experience with supercomputers; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to enact legislation providing adequate funding for the establishment of supercomputer centers; and be it further

Resolved, That the Legislature memorializes the National Science Foundation to grant the necessary funding for the establishment of a supercomputer center at the University of California; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Director of the National Science Foundation.

RESOLUTION CHAPTER 161

Assembly Joint Resolution No. 142—Relative to fish and wildlife management.

[Filed with Secretary of State September 7, 1984]

WHEREAS, The construction of the Trinity River division of the Central Valley project in California, which was authorized by the Congressional Act of August 12, 1955 (69 State. 719), has substantially reduced the streamflow in the Trinity River Basin and badly damaged pools, spawning gravels, and rearing areas and has caused a drastic reduction in the anadramous fish populations and a decline in the scenic and recreational qualities of the river system; and

WHEREAS, The loss of land areas inundated by two reservoirs constructed in connection with the project has caused substantial reductions in the populations of deer and other wildlife historically found in the Trinity River Basin; and

WHEREAS, A fish and wildlife management program has been developed by an existing interagency advisory group, called the Trinity River Basin Fish and Wildlife Task Force; and

WHEREAS, The Secretary of the Interior of the United States requires additional authority to implement a basinwide fish and wildlife management program in order to achieve the long-term goal of restoring fish and wildlife populations in the Trinity River Basin at the level existing immediately before the start of the construction of the Trinity River division; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States of America to pass House Resolution 1438 of the 1st Session of the 98th Congress, which was introduced February 15, 1983 by Representatives Chappie, Bosco, and Shumway, which calls on the Secretary of the Interior to formulate and implement a fish and wildlife management program for the Trinity River Basin designed to restore the fish and wildlife populations in the basin to the levels existing immediately prior to the start of the construction, and to maintain those levels, and calling on the establishment of the Trinity River Basin Fish and Wildlife Task Force, with fourteen members as set forth, including representation selected by the Humboldt County Board of Supervisors, the Trinity County Board of Supervisors and the Hoopa Tribe of the Hoopa Valley Indian Reservation, California, for the purpose of monitoring the implementation of this resolution, and calling for a federal appropriation of $33,000,000 to remain available thereafter until expended, and for the sum of $2,200,000 annually for a ten-year period for the cost of operations, maintenance, and monitoring authorized by this resolution; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the President of the United States to sign

H.R. 1438 after Congressional passage; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 162

Senate Constitutional Amendment No. 23—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by adding Section 15 to Article XI thereof, relating to financing government.

[Filed with Secretary of State September 10, 1984]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 1983–84 Regular Session commencing on the sixth day of December 1983, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended by adding Section 15 to Article XI, thereof, to read:

SEC. 15. (a) All revenues from taxes imposed pursuant to the Vehicle License Fee Law, or its successor, other than fees on trailer coaches and mobilehomes, over and above the costs of collection and any refunds authorized by law, shall be allocated to counties and cities according to statute.

(b) This section shall apply to those taxes imposed pursuant to that law on and after July 1 following the approval of this section by the voters.

RESOLUTION CHAPTER 163

Senate Concurrent Resolution No. 66—Relative to telephone rates.

[Filed with Secretary of State September 10, 1984]

WHEREAS, The Legislature finds that the impact of the divestiture of American Telephone and Telegraph Corporation on the structure of the telephone industry and on telephone service to California citizens will be significant, but the total ramifications will not be known fully until the implementation of the divestiture is complete; and

WHEREAS, Universal telephone service, or telephone service available to all people, has been a standard in this state and nation

since the invention of the telephone; and

WHEREAS, The Legislature lacks adequate information to judge the reliability of local-measured service and flat-rate billing methods that the telephone industry uses and is especially concerned about the economic impact of these methods on elderly, rural, low-income residential users, and nonprofit organizations; and

WHEREAS, The Legislature needs to obtain adequate information so that it is able to make policy decisions, if necessary, about local-measured service that are fair to the needs of the citizens of this state and that are in keeping with a standard of high quality and universal telephone service; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Public Utilities Commission is requested to conduct a study and make recommendations to the Legislature on or before July 31, 1985, concerning (1) the potential impact on residential customers of a mandatory measured or a usage-sensitive method of billing for local telephone service, and (2) the impact that the various billing methods, including, but not limited to, local-measured service and flat-rate billing methods used by the telephone industry in this state have on rural customers, the elderly, small businesses, and nonprofit organizations; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Public Utilities Commission.

RESOLUTION CHAPTER 164

Senate Concurrent Resolution No. 89—Relative to memorializing the Honorable Chief Justice Roger J. Traynor.

[Filed with Secretary of State September 10, 1984.]

WHEREAS, During his long and productive life, Roger J. Traynor, one of the most distinguished jurists in the history of the United States, made a significant contribution to the cause of justice for all Californians, and it is appropriate that his achievements should be hereby memorialized; and

WHEREAS, Chief Justice Traynor was born on February 12, 1900, in Park City, Utah, and he served his country as a member of the United States Army during World War I; and

WHEREAS, He attended the University of California at Berkeley, from which he received a bachelor of arts degree in 1923, a master of arts degree in 1924, and a law degree and doctor of philosophy degree in political science in 1927; in 1958, he also received the honorary degree of doctor of laws from his alma mater, and was subsequently similarly honored by the University of Chicago, the University of Utah, and Boston College; and

WHEREAS, He married the former Madeleine Lackman in 1933, and they were the parents of three sons, John Michael, Joseph Malachy, and the late Stephen Pierre; and

WHEREAS, Chief Justice Traynor served the University of California at Berkeley as an instructor in political science from 1926 to 1929, and as a professor at the Boalt Hall School of Law from 1929 to 1940; and

WHEREAS, Governor Culbert L. Olson appointed him an Associate Justice of the Supreme Court of California in 1940; after twenty-four years of brilliant service on the state's high court, he was appointed Chief Justice of California in 1964 by Governor Edmund G. Brown Sr.; and

WHEREAS, After his retirement from the bench in 1970, Chief Justice Traynor continued his service to his state and profession as a professor at Hastings College of the Law and as a lecturer and visiting professor at other prestigious institutions; and

WHEREAS, During his career, he exerted a profound influence on the development of law and the administration of justice through his numerous publications in legal periodicals, his addresses to professional groups, and, most of all, through his published judicial opinions, which are renowned for their clarity and scholarship; and

WHEREAS, Chief Justice Traynor is recognized by the Anglo-American legal community as one of the most outstanding judges in the history of the common law tradition, and his greatness was acknowledged in the many honors he received; and

WHEREAS, Chief Justice Traynor passed away on May 14, 1983, and, through his life's work, he has left to all Californians a magnificent legacy of justice under law; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California hereby memorializes the many achievements of the late Chief Justice Roger J. Traynor and expresses the gratitude of the people of California for the brilliant service which he provided them; and be it further

Resolved, That the Secretary of the Senate transmit suitably prepared copies of this resolution to Madeleine Traynor, John Michael Traynor, and Joseph Malachy Traynor.

RESOLUTION CHAPTER 165

Senate Concurrent Resolution No. 27—Relative to a study of drinking and driving laws.

[Filed with Secretary of State September 12, 1984]

WHEREAS, It is recognized that between 50 and 70 percent of all fatal highway accidents are alcohol-involved; and

WHEREAS, The Legislature has found that drinking drivers contribute to a substantial number of fatalities, permanent disability, and property damage in California; and

WHEREAS, The effectiveness, efficiency, and consistency in the administration of the state's drinking and driving laws recently enacted to increase fines, restrict plea bargaining, and make those persons who drive with a 0.10 percent or more blood alcohol level guilty of a misdemeanor, have not been established; and

WHEREAS, The results of an evaluation will be of importance to the Legislature in determining the effectiveness of drinking and driving laws as deterrent measures; and

WHEREAS, The annual economic costs of alcohol-related motor vehicle accidents amount to about $2.2 billion in California; and

WHEREAS, The Intergovernmental Advisory Council on Alcohol, Drugs and Traffic Safety has been established to review proposed and enacted federal and state legislation and to study evaluations in the area of alcohol, drugs, and traffic safety; and

WHEREAS, The council will be monitoring major studies and programs addressing alcohol, drugs, and traffic safety and formulating recommendations; and

WHEREAS, Research and program evaluation are essential components of a comprehensive systems approach to solving the drinking driver problem; and

WHEREAS, An evaluation will assist state and local agencies to more clearly interpret alcohol and highway safety data, including the confounding effect of variables, such as vehicle mileage, that may effect an accurate assessment for application to alcohol and driving prevention, enforcement, adjudication, treatment, and research programs; and

WHEREAS, The council will be recommending any administrative changes or additional legislation it believes necessary, and will be providing an annual report to the Governor's office; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Intergovernmental Advisory Council on Alcohol, Drugs and Traffic Safety is requested to prepare a report containing an evaluation of the efficiency, effectiveness, and consistency of the administration of the state's drinking and driving laws, and to adopt recommendations resulting from this evaluation for the modification, repeal, or addition of procedures or laws that will enhance the operation and effectiveness of current drinking and driving laws, and to submit the report and its recommendations to the Legislature on or before July 1, 1987; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Secretary of the Business, Transportation and Housing Agency and to the Chairman of the Governor's Intergovernmental Advisory Council on Alcohol, Drugs and Traffic Safety.

RESOLUTION CHAPTER 166

Senate Joint Resolution No. 49—Relative to refugees.

[Filed with Secretary of State September 12, 1984]

WHEREAS, California has an estimated 300,000 refugees, approximately 40 percent of all refugees admitted into the United States since 1975; and

WHEREAS, The refugees who come to the United States have unique needs, such as cultural orientation, an understanding of the Western work habit, and the need for English speaking ability that must be addressed before they can become competitive in the job market; and

WHEREAS, The Legislature has both a humanitarian and fiscal interest in seeing refugees become economically self-sufficient as soon as possible; and

WHEREAS, The traditional public assistance programs are not designed to take into account, or provide programs to meet, the unique needs of refugees; and

WHEREAS, The United States House of Representatives in reauthorizing the Refugee Act of 1980 through the Refugee Assistance Extension Act of 1983 has recognized that alternate programs outside of the current welfare system must be developed to provide cash and medical assistance to needy refugees while their general orientation to America is accomplished; and

WHEREAS, The Federal Office of Refugee Resettlement is exploring such program alternatives to be tested in some states and their reauthorization of the Refugee Act of 1980; now, therefore, be it

Resolved, That the Legislature hereby memorializes the Senate and President of the United States to join with the House of Representatives in order to enact the Refugee Assistance Extension Act of 1983; and be it further

Resolved, That the Legislature hereby memorializes the Congress and President of the United States to enact provisions allowing for a pilot program in which a state may participate for refugee resettlement of those refugees who would otherwise be eligible for the Aid to Families with Dependent Children program, as well as local general assistance programs. This program should include all of the following:

(1) A requirement that refugees would obtain federally funded cash assistance and medical benefits from this program, rather than from the state's Aid to Families with Dependent Children program or from county general assistance programs, and that any refugee qualifying for this program would be eligible up to three years from the date of arrival in the United States.

(2) A requirement that a participating state use the same needs test, sanctions, and appeal procedure for this program that it would

use for its Aid to Families with Dependent Children program.

(3) A requirement that refugees participating in this program shall receive training in English language skills and a familiarization in American life and the Western work habit, if an assessment of the refugee's employability deems these services necessary to make the refugee competitive in the job market.

(4) A provision permitting the transfer of funds used by a state pursuant to Title IV (a) and Title XIX of the federal Social Security Act (42 U.S.C. Sec. 601 et seq., Sec. 1396 et seq.), in order to defray the costs of providing cash assistance and medical benefits to refugees otherwise eligible for the state's Aid to Families with Dependent Children or Medicaid programs.

(5) A provision permitting expenditure of federal discretionary funds appropriated to the federal Office of Refugee Resettlement, if funds utilized pursuant to subdivision (4) are not sufficient to fund this demonstration project.

(6) A requirement that periodic evaluations are conducted regarding the efficacy of the pilot project approach; and be it further

Resolved, That the Secretary of the Senate shall transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative in the California delegation.

RESOLUTION CHAPTER 167

Senate Concurrent Resolution No. 55—Relative to the Judges' Retirement System.

[Filed with Secretary of State September 13, 1984]

WHEREAS, It is to the benefit of the members of all public employee retirement systems and of the people of the State of California that all retirement systems operate on a fully funded and actuarially sound basis; and

WHEREAS, The Judges' Retirement Law declares that on and after January 1, 2002, the Judges' Retirement System shall be fully funded; and

WHEREAS, The system is now less than .4 percent funded and has accrued an annually increasing unfunded liability of over $450,000,000; and

WHEREAS, The special character of the Judges' Retirement System and the financial condition of the state require continuing consideration of the funding objectives of the system; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature requests the heads of the following departments, agencies, or entities to establish a study team

under the direction of the Public Employees' Retirement System to be comprised of one representative from each of the following: the California Judges Association, and the Department of Finance; one public member to be appointed by the Governor; one Member of the Senate to be appointed by the Senate Rules Committee; and one Member of the Assembly to be appointed by the Speaker; and be it further

Resolved, That the study team shall determine an appropriate plan for the funding of the system and shall consider the following:

(a) The present actuarial condition of the Judges' Retirement Fund.

(b) The anticipated fiscal requirements necessary to meet the system's obligations between 1984 and 2002.

(c) The consequences of continued operation as an unfunded system.

(d) The present benefit structure as it relates to the level of income replacement determined to be necessary to maintain the living standards of retired judges.

(e) The feasibility and cost implications of any changes in the present benefit structure which may be desirable in consideration of (d) above and the objectives of the system.

(f) The cost implications of those provisions in the present benefit structure which tend to encourage deferred retirement and retirement prior to age 70.

(g) Alternative funding sources.

(h) Alternative system designs, including actuarial assumptions, contribution rates, funding dates and objectives.

(i) Any other actuarial and policy considerations which bear upon the financial soundness of the system; and be it further

Resolved, That the study team shall consult with appropriate legislative staff and prepare a preliminary report of its study to be presented at a public hearing conducted no later than November 1, 1984; and be it further

Resolved, That the study team prepare a final report of its study, to include written comment from interested parties together with its recommendation to the appropriate policy and fiscal committees of the Legislature no later than January 1, 1985.

RESOLUTION CHAPTER 168

Senate Concurrent Resolution No. 91—Relative to Cathedral High School.

[Filed with Secretary of State September 13, 1984.]

WHEREAS, Cathedral High School of Los Angeles is the oldest Catholic High School established by the Archdiocese of Los Angeles;

in its distinguished 60-year history, it has educated many thousands of young men of a wide variety of ethnic backgrounds reflecting the changing nature of the east side of Los Angeles, and Cathedral High School has been one of the most important educational institutions serving Los Angeles' large Latino community; and

WHEREAS, The Christian Brothers, who operate the school, have provided outstanding education to many of Los Angeles' top professionals; and the school and its faculty and graduates have all made enormous contributions to the greater Los Angeles community which has enriched and been enriched by Cathedral High School over the years; and

WHEREAS, Cathderal High School is an institution in which the broad cultural and social history of Los Angeles is truly exemplified; and

WHEREAS, It has recently been announced that the property will be sold for the potential development of a housing and commercial project; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature finds that because of the value of the Cathedral High School facility to the community, every effort should be made to accommodate the people of Los Angeles; and be it further

Resolved, That any action taken regarding use of the school site and facilities of Cathedral High School be for the continued benefit of the people of Los Angeles.

RESOLUTION CHAPTER 169

Senate Joint Resolution No. 40—Relative to the establishment of a national "silver-haired" congress.

[Filed with Secretary of State September 13, 1984]

WHEREAS, Twenty states, including California, have adopted some form of state senior citizen legislative body; and

WHEREAS, Older residents of California and other states have been afforded an opportunity to express their concerns and to promote appropriate interests; and

WHEREAS, State government leaders, including the California State Legislature, have found these special legislatures to be in the best interests of older and younger residents, alike; and

WHEREAS, The California State Legislature has found the California Senior Legislature to be an invaluable asset in identifying and meeting the needs of older adults; and

WHEREAS, State Senior Legislatures have dealt with primarily state-based concerns and have relied upon nationally oriented institutions to promote the national concerns of elders; and

WHEREAS, The genesis of a national silver-haired congress may provide an important, new dimension for the promotion of elder rights in a legislative mode; and

WHEREAS, The purposes of a national silver-haired congress would effectively parallel those purposes which are now promoted on an individual state level; and

WHEREAS, A national congress for older adult concerns would serve as a complement to many organizations now operating on behalf of older Americans; and

WHEREAS, A national silver-haired congress would serve as a grass roots, nonpartisan, national forum for all older adult concerns, without regard to race, creed, color, national origin or social status; and

WHEREAS, A national silver-haired congress would provide a nationally visible forum for responsible involvement by older adults in the legislative process resulting in a focal point for the concerns of older Americans; therefore, be it

Resolved, by the Senate and Assembly of the State of California, jointly, That the Legislature respectfully memorializes the President and the Congress to support and enact legislation which would authorize a national silver-haired congress and offer the use of the national legislative chambers for their convention and deliberations, and be it further

Resolved, That in the event a National Silver-Haired Congress is established,all efforts will be made to obtain funding from the private sector for support of the activities of that senior legislative body, and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 170

Senate Joint Resolution No. 47—Relative to flood control in the Santa Ana River basin.

[Filed with Secretary of State September 13, 1984]

WHEREAS, One of the greatest flooding threats in the United States lies within the overflow path of the Santa Ana River within Orange County; and

WHEREAS, In this century, there have been 14 medium to severe winter floods in the Santa Ana River basin, including one in 1938 which devastated central Orange County and killed 45 persons; and

WHEREAS, Congress acted quickly after the 1938 flood and

authorized construction of Prado Dam near Corona, which was completed in 1941; and

WHEREAS, Subsequent study by the United States Army Corps of Engineers has estimated that a flood like the one which occurred in 1862, a flood not included in the design of Prado Dam, would fill the reservoir beyond its capacity, with the uncontrolled flow over the spillway harming more than one million people and causing damage and economic loss of more than nine billion dollars, and would cover 100,000 acres of central Orange County to an average depth of three feet; and

WHEREAS, the Boards of Supervisors of Orange, Riverside, and San Bernardino Counties have requested the Corps of Engineers to remedy this great flood hazard, but construction has not yet been authorized by Congress; and

WHEREAS, If authorized in 1984, the earliest anticipated completion would be not sooner than about 1999; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to authorize funding for flood control improvements in the Santa Ana River basin; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to each Senator and Representative from California in the Congress of the United States, and to the Chief of the United States Army Corps of Engineers.

RESOLUTION CHAPTER 171

Senate Joint Resolution No. 51—Relative to the Mexican fruit fly.

[Filed with Secretary of State September 13, 1984]

WHEREAS, The Mexican fruit fly is a voracious pest whose principal hosts are apples, apricots, avocados, grapefruit, nectarines, oranges, peaches, pears, and plums; and

WHEREAS, A statewide infestation in these crops could annually cost as much as $87 million in crop losses and an additional $20 million in spray costs per year; and

WHEREAS, An infestation of this pest would be detrimental to the state, causing in addition to serious commercial crop damage, the destruction of gardens and parks; and

WHEREAS, The Mexican fruit fly is a constant threat to California having caused an infestation in 1954 which was eradicated in southern San Diego and Imperial Counties; and

WHEREAS, An infestation of this fly has been found in Los

Angeles County in 1983, which eradication costs are expected to be between $2 million and $3 million through the summer of 1984; and

WHEREAS, If the Mexican fruit fly were established in California, an additional 2 million pounds of pesticides would be put into the environment annually to control it; and

WHEREAS, The use of sterile fruit flies is a proven integrated pest management tool which can possibly eradicate small populations of Mexican fruit flies; and

WHEREAS, Sterile Mexican fruit flies were not available for the Los Angeles area infestation because insufficient rearing facilities exist; and

WHEREAS, The United States Department of Agriculture's (U.S.D.A.) sterile Mexican fruit fly production center in Monterey, Mexico does not have the capacity to produce sufficient numbers of sterile flies for California's potential future needs; and

WHEREAS, The U.S.D.A. is planning to construct a permanent sterile fly rearing facility by July, 1985, at its Mission, Texas site for the purposes of eradicating or suppressing a Mexican fruit fly infestation in the Rio Grande Valley or eventually creating a buffer zone across the Mexican border; and

WHEREAS, Since Americans are a highly mobile society and since the Mexican fruit fly heavily infests the northern portions of Mexico along our border, it is reasonable to assume that California will again experience Mexican fruit fly outbreaks; and

WHEREAS, Significant numbers of residents in densely populated areas have expressed concern about possible health effects associated with the aerial spraying of pesticides to eradicate the Mexican fruit fly; and

WHEREAS, The California Department of Food and Agriculture is contracting with the United States Department of Agriculture to provide funding to maintain the interim Mexican fruit fly rearing facility, to investigate mass rearing techniques, and to provide sterile flies to California in case of another outbreak; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That California's contribution to this proposed joint federal and state sterile fly rearing center would be its share of the costs to maintain the facility with the understanding that California would receive top priority on sterile fly production during any eradication effort within California; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the United States Secretary of Agriculture and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 172

Senate Joint Resolution No. 54—Relative to the release of Dr. Yosef Begun.

[Filed with Secretary of State September 13, 1984.]

WHEREAS, The citizens of the State of California are concerned about the suppression of political and religious freedoms; and

WHEREAS, These same citizens are committed to the preservation of diverse languages and cultures, in addition to our nation's primary language; and

WHEREAS, In the Soviet Union the Hebrew language is the only language prohibited by that government; and

WHEREAS, Dr. Yosef Begun, a Jew in the Soviet Union, was born, raised and educated in Moscow; and

WHEREAS, In 1971, upon applying for emigration to the State of Israel, Dr. Yosef Begun lost his job and was denied emigration on grounds of "regime considerations"; and

WHEREAS, After numerous odd jobs, Dr. Yosef Begun began work as a private Hebrew teacher until he was arrested and exiled to Siberia in an attempt by authorities of the Soviet Union to rid him of his "parasitism"; and

WHEREAS, In November 1982, Dr. Yosef Begun was again arrested and scheduled to await trial for the third time; and

WHEREAS, Since 1971, Dr. Yosef Begun served five years in exile in Siberia, has been denied return to Moscow and has fought passionately for the right to teach Hebrew and preserve the valuable Jewish culture; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California hereby respectfully memorializes the President and Congress of the United States to take action to secure the release of Dr. Yosef Begun, and to persuade the government of the Soviet Union to permit Dr. Begun to emigrate to Israel; and be it further

Resolved, That the Secretary of the Senate transmit suitably prepared copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 173

Assembly Concurrent Resolution No. 152—Relative to the Community Board School Initiative Program.

[Filed with Secretary of State September 14, 1984.]

WHEREAS, Conflict, including violence and vandalism, is prevalent on primary and secondary school campuses throughout California; and

WHEREAS, Conflict and violence on school campuses has reached a sufficient level of significance to threaten the maintenance of a peaceful learning climate in our schools; and

WHEREAS, Concern over the incidence of violence, conflict, and tension in the schools has been expressed by students, teachers, school administrators, parents, and law enforcement officials throughout the state; and

WHEREAS, The Community Board School Initiative Program teaches youth how to cope effectively with their environment by providing them interpersonal communication and conflict resolution skills to peacefully resolve disputes in their schools, homes, and community; and

WHEREAS, The Community Board School Initiative Program decreases tension, hostility, and violence within multiracial, ethnic student bodies by educating youth from diverse backgrounds to work together and exercise their continuing civic responsibilities to express and resolve conflicts peacefully; and

WHEREAS, The Community Board School Initiative Program advances the social skills of students, allowing them to assume responsibility for improving their social and learning environments and to build a stronger sense of community, cooperation, and harmony at school; and

WHEREAS, The Community Board School Initiative Program teaches students to effectively solve their problems, thereby allowing them more time and energy to devote to their academic endeavors; and

WHEREAS, The Community Board School Initiative Program enables teachers to focus their attention on teaching rather than on refereeing student conflicts which occur in classrooms, hallways, and lunchrooms, and on the playgrounds; and

WHEREAS, A program of the scope and importance of the Community Board School Initiative Program deserves great commendation for offering youth the opportunity to acquire constructive conflict resolution skills, thereby improving society and the quality of life for tomorrow's young adults; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That it takes great pride in commending the Community Board School Initiative Program for the exceptional and important work it has done in several inner-city schools in the City of San Francisco which provides a unique model for all California schools; and be it further

Resolved, That through this commendation the State Board of Education is urged to explore the incorporation of these conflict resolution learning programs as an appropriate part of the basic

curriculum in California schools in kindergarten and in grades 1 to 12, inclusive; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Board of Education.

RESOLUTION CHAPTER 174

Assembly Concurrent Resolution No. 161—Relative to albacore fishing.

[Filed with Secretary of State September 14, 1984]

WHEREAS, A substantial number of fishing vessels based in California and in the other Pacific states are now operating in the North Pacific, both west and east of the International Dateline; and

WHEREAS, A viable albacore fishery has been developed in that area through many years of research, which was funded by the industry through the American Fishermen's Research Foundation, working in cooperation with the National Marine Fisheries Service and the Pacific Tuna Development Foundation (now named the Pacific Fisheries Development Foundation), all of which clearly demonstrate the interest of the government and industry in developing these fisheries; and

WHEREAS, Several other fisheries with significant potential have begun to develop as a consequence of the vessels traveling along the leeward islets chain to and from the Midway albacore fishery; and

WHEREAS, The national interest would be served by improving our balance of trade position, by establishing and maintaining an economic and physical presence in the area, and by creating and maintaining employment and business in Hawaii and on the Pacific Coast of the continental United States; and

WHEREAS, Midway Island Harbor is the only harbor of refuge in reasonable proximity to this area, the next harbor being Honolulu, and Midway Island Harbor has unused facilities available which can be utilized without inconvenience to the Navy and without any security risk; and

WHEREAS, Midway Island is at the upper tip of the Northwestern Hawaiian Islands and is only a few days' running time from the migratory route of the Northern Pacific albacore; and

WHEREAS, Albacore is primarily caught by small trolling vessels manned by crews of two to three members, and the running time of 10 to 12 days from Honolulu and substantially longer from California to the fishing grounds makes albacore fishing impractical for small vessels; and

WHEREAS, Establishment of a base on Midway Island for refueling, resupplying, and offloading may make albacore fishing economically viable; and

WHEREAS, The Pacific Tuna Development Foundation estimated that revenues from albacore fishing could reach $25 million a year after a five-year development program; and

WHEREAS, Midway Island, however, is a United States Naval Base and the Navy's permission is required if a civilian fishing base is to be constructed on the island; and

WHEREAS, Only a small part of the inner harbor and land of Midway Island is required for a fishing base; and

WHEREAS, The fishing fleet will continue to operate in cooperation with the American Fishermen's Research Foundation and to provide oceanographic information, including sea temperature, bathythermograph, wind and weather, and other technical data which will be of value to the Navy and other government agencies, and provide data for more accurate weather forecasting for the Pacific Coast; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California hereby respectfully memorializes the President and Congress of the United States, and the Secretary of Defense, the Secretary of the Navy, and the Secretary of Commerce to make the harbor facilities, or a part thereof, of Midway Island available for use by American fishing vessels to the extent necessary to support American fishing activities in the adjacent areas of the Pacific Ocean; and be it further

Resolved, That the Department of Fish and Game, in cooperation with the Department of Economic and Business Development, the Economic Development Commission, the Joint Committee on Fisheries and Aquaculture, and other appropriate state agencies, contact the United States Navy, other appropriate federal agencies, the State of Hawaii, and interstate agencies, including the Pacific Marine Fisheries Commission and the West Coast Fisheries Development Foundation, to attempt to make the harbor facilities of Midway Island available, and to determine whether the State of California may play any role in making them available; and be it further

Resolved, That the Department of Fish and Game shall report to the Legislature on or before January 1, 1985, and periodically thereafter, on progress toward making the harbor facilities available and on any further steps the State of California might take to make them available; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of Defense, the Secretary of the Navy, the Secretary of Commerce, to each Senator and Representative from California in the Congress of the United States, to the Director of Fish and Game, to the Director of Economic and Business Development, to the Chair of the Economic Development Commission, to the Chair of the Joint Committee on Fisheries and Aquaculture of the Legislature, to the Executive Director of the Pacific Marine Fisheries Commission, and

to the Executive Director of the West Coast Fisheries Development Foundation.

RESOLUTION CHAPTER 175

Assembly Concurrent Resolution No. 162—Relative to higher education.

[Filed with Secretary of State September 14, 1984.]

WHEREAS, California's three-tiered system of public higher education and private higher education institutions have served the state well over the last two decades as a result of the enactment of the Master Plan for Higher Education embodied within the Donahoe Higher Education Act; and

WHEREAS, The last legislative review of the Master Plan for Higher Education was initiated in 1971 and completed in 1973, and Section 66012 of the Education Code provides for the review of the master plan by the Legislature at 10-year intervals; and

WHEREAS, California has experienced enormous changes in the 11 years since 1973; and

WHEREAS, There are a number of pressing educational, social, and economic issues which require a legislatively directed review of the master plan; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California Legislature appoint a Joint Committee for Review of the Master Plan for Higher Education; and be it further

Resolved, That the Joint Committee for the Review of the Master Plan for Higher Education shall comply with all of the following criteria:

(a) The committee shall consist of 14 members, including seven Members of the Senate and seven Members of the Assembly appointed pursuant to Temporary Joint Rules 36.5 and 36.7. Membership shall be bipartisan and proportionally reflective of the membership of each respective house.

(b) The committee shall conduct hearings on the interim and final reports of the commission established pursuant to Senate Bill 1570 and Senate Bill 2064 of the 1983–84 Regular Session.

(c) The committee shall review and comment on the management plan for review of the master plan developed by the commission established pursuant to Senate Bill 1570 by March 15, 1985. The committee shall review all reports of the commission and submit its recommendations to the Legislature by March 1, 1987; and be it further

Resolved, That the joint committee shall conduct its review with the following issues, including, but not limited to, all of the following:

(a) California's postsecondary educational needs through the year 2000.

(b) Basic and lower-division instructional functions of the various postsecondary institutions, with particular attention to the reassessment of the mission and functions of California community colleges as specified in Senate Bill 2064 of the 1983–84 Regular Session.

(c) Access and success of students, in particular, students from groups underrepresented in postsecondary education.

(d) Existing and alternative systems of delivery and their ability to serve present and future student populations.

(e) Direct and indirect state expenditures for students attending California postsecondary institutions, including student financial assistance and institutional support; and be it further

Resolved, That the committee is authorized to act only until June 30, 1987; and be it further

Resolved, This measure shall not become operative unless both Senate Bill 1570 and Senate Bill 2064 of the 1983–84 Regular Session are also chaptered , and in that case this measure shall become operative upon the later of the effective dates of this measure, Senate Bill 1570, or Senate Bill 2064.

RESOLUTION CHAPTER 176

Assembly Concurrent Resolution No. 164—Relative to historical grant program.

[Filed with Secretary of State September 14, 1984.]

WHEREAS, The Legislature recognizes the importance of preserving the state's historical and cultural nonrenewable resources for its economic, cultural, and social well-being; and

WHEREAS, The outstanding commitment to the preservation of California's unique cultural heritage by local and statewide nonprofit organizations is evident from the contributions of over 60 state and local preservation organizations, 600 historical societies, and over 300 museums and programs specializing in the preservation of our past; and

WHEREAS, The Legislature in 1981 mandated the creation of the Heritage Task Force comprised of 16 statewide members with specified qualifications for the purpose of studying and recommending policy, programs, and legislation to preserve and enhance California's architectural, cultural, and historical resources and required the submission of a report outlining its recommendations to the Legislature within one year of its appointment; and

WHEREAS, The Heritage Task Force report dated June 1984,

recommends the creation of a matching grant program for the purpose of funding the interpretation and preservation of local and regional history; program development and technical assistance; and conservation, management, and interpretation of historical collections, sites, and buildings; and

WHEREAS, Grants administered by the Department of Parks and Recreation have generally been restricted to capital outlay projects, but the state has successfully administered direct grant assistance to nonprofit organizations for the purpose of encouraging local programs for the arts and humanities; and

WHEREAS, There is no state assistance to local historical and cultural organizations for historical program purposes; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Parks and Recreation, through the Office of Historic Preservation, and in cooperation with California Heritage Task Force representatives and the State Historical Resources Commission, is requested to consolidate the information developed by the Heritage Task Force relative to its recommendation to establish an historical grant program, to conduct a public hearing utilizing the regularly scheduled meetings of the State Historical Resources Commission to receive testimony on proposed criteria for those grant awards, and to report its findings to the Legislature, on or before November 30, 1984, on the justification for and feasibility of implementing such a grant program, including, but not limited to, recommendations on specific criteria and legislative actions; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Parks and Recreation.

RESOLUTION CHAPTER 177

Assembly Concurrent Resolution No. 172—Relative to the California Public Procurement Advisory Committee.

[Filed with Secretary of State September 14, 1984]

WHEREAS, Resolution Chapter No. 62 of the 1983–84 Legislative Session created the California Public Procurement Advisory Committee and prescribed its membership and duties; and

WHEREAS, Pursuant to Resolution Chapter No. 62, the California Public Procurement Advisory Committee is authorized and directed to study, investigate, and analyze state public procurement of goods, services, and construction in California, including procurement by the California State University and by the University of California, and to submit its recommendations to the Governor and the Legislature by January 1, 1985; and

WHEREAS, In order to effectuate cost savings in the state procurement of goods, services, and construction in California, it is necessary that the Governor and the Legislature receive annual recommendations from the California Public Procurement Advisory Committee; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California Public Procurement Advisory Committee annually study, investigate, and analyze state public procurement of goods, services, and construction in California, including procurement by the California State University and by the University of California, and annually submit its recommendations to the Governor and the Legislature by January 1 of each year beginning January 1, 1985, through January 1, 1990.

RESOLUTION CHAPTER 178

Assembly Joint Resolution No. 74—Relative to the creation of United States-Soviet Union Mutual Nuclear Risk Reduction Centers and a Joint Crisis Management Center.

[Filed with Secretary of State September 14, 1984.]

WHEREAS, Since 1945, the major objective of the United States National Security policy has been averting nuclear war; and

WHEREAS, To achieve this end, the United States' policy has stressed deterrence with the threat and capability of massive nuclear retaliation; and

WHEREAS, A broad spectrum of people, including some arms control experts, elected officials, religious leaders, physicians, teachers, and lawyers, among others, now question whether deterrence-based peace can be maintained; and

WHEREAS, By the end of this decade, as many as 20 nations will possess the industrial and technical capability to produce nuclear weapons, thereby significantly increasing the probability that a nuclear crisis will occur, either by design or by accident; and

WHEREAS, The possibility exists for a third party detonation of a nuclear weapon which could trigger an all-out nuclear war between the superpowers; and

WHEREAS, With each new weapons system, there is less time to make decisions whether to deploy or abort such devices during a crisis situation; and

WHEREAS, Currently the United States nuclear debate focuses on a bilateral freeze, arms reduction and weapons equality between the superpowers; and

WHEREAS, The nuclear debate does not focus on potential causes or sources of nuclear war, tensions, global trouble spots, nuclear proliferation, or future terrorist activity; and

WHEREAS, The SALT process has concentrated on limiting each country's weapons stockpile rather than on developing crisis stability; and

WHEREAS, Controlling the use of these weapons in a crisis is far more critical than numbers, costs, or technological superiority; and

WHEREAS, In June of 1982, President Reagan stated that the United States intends to make specific proposals to the Soviet Union for reducing "the risk of nuclear war arising from uncertainty and miscalculations"; and

WHEREAS, There is now an emerging awareness that the greatest threat to peace lies not in the United States and Soviet Union military capabilities, but in their capability for crisis decisionmaking; and

WHEREAS, The decreased possibility of launching nuclear weapons is generally supported by government leaders regardless of political party or ideology; and

WHEREAS, No existing international framework or mechanism exists for rapidly and accurately determining the origin of a nuclear explosion or controlling the uncertainties in a world of multiple nuclear powers; and

WHEREAS, In the event of an actual nuclear weapon crisis situation, an established forum for the United States and the Soviet Union to reduce risks and immediately begin negotiations will greatly secure the safety of the future of peoples of the world; and

WHEREAS, United States Senators John Warner, Republican of Virginia; Sam Nunn, Democrat of Georgia; Ernest Hollings, Democrat of South Carolina; and the late Henry Jackson, Democrat of Washington, have introduced a Senate Resolution to establish Mutual Nuclear Risk Reduction Centers in Washington and Moscow; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the President and Congress are respectfully memorialized to propose establishment by the United States and Soviet governments of Mutual Nuclear Risk Reduction Centers to reduce the possibility of nuclear confrontation, whose functions would be as follows:

(1) To discuss and outline the procedures to be followed in the event of possible incidents involving the use of nuclear weapons.

(2) To maintain close contact during incidents precipitated by nuclear terrorists, thus facilitating cooperative actions to defuse the incident, and specifically, to avoid the danger that the explosion of a nuclear device by a terrorist group might lead to a nuclear confrontation between the great powers.

(3) To exchange information on a voluntary basis concerning events that might lead to nuclear proliferation or to the acquisition of nuclear weapons, or the materials and equipment necessary to build weapons, by subnational groups.

(4) To exchange information about military activities which might be misunderstood by the other party during periods of mounting tensions.

(5) To establish a dialogue about nuclear doctrines, forces, and activities; and be it further

Resolved, That following a period of successful operation of these Mutual Nuclear Risk Reduction Centers, the President and Congress are further respectfully memorialized to either merge into, or establish additionally, a United States-Soviet Union Joint Crisis Management Center dedicated to increasing the decisionmaking ability of governments during a crisis in which nuclear war is threatened and as an ongoing organization which will research the potential causes of war, with the participation and cooperation of all nations possessing nuclear capabilities, and develop means of negotiation which both the United States and the Soviet Union can utilize when crises do arise, and whose activities will include:

(1) Enhancement of crisis management which is the ability the United States, Soviet Union, and all other nations with nuclear capabilities possess to avoid or limit the potential use of nuclear weapons during a crisis.

(2) Reduction of the risk of nuclear war due to miscalculation or uncertainty.

(3) Training of leaders to apply conflict resolution techniques in crisis management.

(4) Development of a standard operating procedure, standard messages, and specific decisionmaking procedures to be used in a crisis situation.

(5) Development of accurate detection devices for nuclear detonation anywhere in the world.

(6) Employment of confidence-building measures between the United States, Soviet Union, and all other nations possessing nuclear capabilities to develop greater trust, including: (a) increasing the warning time in the event of a weapon launch; (b) reducing vulnerability of command, control, and communication ability; (c) upgrading the hotline communication system; and (d) sharing information on weapons that could be used by terrorists.

(7) Staffing such a center with political and military experts from the United States and Soviet Union, as well as representatives of all other nations possessing nuclear capabilities.

(8) Working to reduce the possibility of nuclear war and surprise attack through improvement of negotiation skills.

(9) Better understanding of the reasons of war and the nature of crisis; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 179

Assembly Joint Resolution No. 105—Relative to biological pest prevention programs.

[Filed with Secretary of State September 14, 1984.]

WHEREAS, The Environmental Protection Agency (EPA) recently recommended tolerance levels and announced a phase out of ethylene dibromide which, in addition to its use as a soil fumigant, grain fumigant, and grain milling machinery fumigant has been used extensively as a fumigant to control the introduction of certain fruit flies in agricultural products shipped into this state from Texas and Florida; and

WHEREAS, The EPA decision to phase out the use of ethylene dibromide has weakened California's effective pest quarantine program; and

WHEREAS, There are no practical alternatives to the use of ethylene dibromide in the foreseeable future, thus causing this state to risk additional pest introductions; and

WHEREAS, Currently, California is faced with at least eight pest infestations; and

WHEREAS, Eradication efforts in terms of cost to the taxpayers are enormous so that the Mediterranean fruitfly outbreak in California a few years ago cost the taxpayers of this state over $100 million; and

WHEREAS, With the increasing trend to eliminate the use of certain chemicals vital to agriculture, it is very important that biologically sound pest prevention programs be adopted by governmental and private agencies involved in agriculture; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to provide sufficient funding for biologically sound pest prevention programs in order to ensure that the states do not suffer from outbreaks of agricultural pests caused by the decreasing number of available methods of pest control; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Speaker of the House of Representatives, to the President pro Tempore of the United States Senate, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 180

Assembly Joint Resolution No. 138—Relative to the definition of "tax home" for federal income tax purposes for certain military personnel.

[Filed with Secretary of State September 14, 1984.]

WHEREAS, Strategic Air Command (hereafter referred to as SAC) aircraft and intercontinental ballistic missile crews, Tactical Air Command (hereafter referred to as TAC) aircrews, Coast Guard and Navy crews are required to be on "Alert Duty" for periods of 24 hours or more to assure the security of the United States; and

WHEREAS, These Air Force aircraft and missile crews, Coast Guard and Navy crews, on "Alert Duty" are away from their "tax home" for extended periods of time on a restricted basis and cannot leave the "alert" facilities for any reason; and

WHEREAS, These SAC aircraft and missile crews, TAC aircrews, Coast Guard and Navy crews, do not receive any tax benefits for such "Alert Duty" expenses with respect to the definition of "tax home" as set forth in Section 162(a) of the Internal Revenue Code; and

WHEREAS, These SAC aircraft and missile crews, TAC aircrews, Coast Guard and Navy crews on "Alert Duty" do not receive the same tax advantages under regulations promulgated by the Internal Revenue Service which are provided for firemen and railroad personnel with respect to that "tax home" definition; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to support and enact legislation recognizing the dedication to duty of Strategic Air Command aircraft and missile crews, Tactical Air Command aircrews, Coast Guard and Navy crews involved in "Alert Duty" assignments and to amend appropriately the definition of "tax home" under Section 162 of the Internal Revenue Code to provide that:

"For members of the Strategic Air Command, Tactical Air Command, United States Air Force, the air base alert facilities, and intercontinental ballistic missile sites; and for members of the United States Navy, any alert vessel or shore-based facilities, or any such Air Force, Coast Guard or Navy base, site, vessel, station, or portions thereof, on which such alert facility is located and which is accessible to such members while assigned to ' Alert Duty' for a period of time of 24 hours or more, shall not be considered as the ' tax home' of such member for any period of such duty;" and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each California Senator and Representative, to the Senate Armed Services

Committee, to the Senate Rules and Administration Committee, to the House Armed Services Committee and to the House Rules Committee.

RESOLUTION CHAPTER 181

Assembly Joint Resolution No. 140—Relative to the National Weather Service.

[Filed with Secretary of State September 14, 1984]

WHEREAS, It has come to the attention of the Members of the Legislature of the State of California that the President and his administration are considering elimination or reduction of certain portions of the National Weather Service; and

WHEREAS, Certain functions, such as national defense, law enforcement, protection of our borders, and weather analysis and forecasting are the responsibility of the federal government; and

WHEREAS, Fire weather forecasting is as important to California as the hurricane and tornado watch is to the midwest and southern states; and

WHEREAS, Fire agencies and agriculture in California and throughout the United States depend upon reliable weather information for public safety and commerce, which has resulted in a significant reduction in violent fire and weather deaths and in savings of an estimated $850 million per year in production costs for farmers and in fire suppression costs for fire control agencies; and

WHEREAS, Agriculture is the number one industry in California in terms of cash value and productivity, representing 14 billion dollars in gross production; and

WHEREAS, Weather monitoring, data analysis, and forecasting require a well coordinated organization and the facilities to support that organization; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to reconsider elimination or reduction in any part of the National Weather Service; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 182

Assembly Joint Resolution No. 144—Relative to Raoul Wallenberg.

[Filed with Secretary of State September 14, 1984.]

WHEREAS, Raoul Wallenberg, who saved the lives of thousands of Hungarian Jews during the Holocaust, is unquestionably one of the great heroes in the history of the 20th century; and

WHEREAS, Born in 1912, Raoul Wallenberg was a member of a wealthy and prominent Swedish family; in 1944, he volunteered to leave neutral Sweden to travel to Nazi-occupied Hungary as Secretary of the Swedish Legation with the rescue of the Jews there as his mission; and

WHEREAS, For six months in Budapest, he issued Swedish passports, thus granting immunity to the Jews who possessed them, met with the local authorities in an effort to save as many lives as possible and to delay the course of the "Final Solution" in Hungary for as long as he could, provided housing for many of the people he rescued, and, in the final analysis, was able to save thousands of lives; and

WHEREAS, The Soviet Union, in violation of his Swedish diplomatic immunity and of international law, seized him on January 17, 1945, with no explanation ever given for his detention and subsequent imprisonment; and

WHEREAS, The fate of Raoul Wallenberg remains unclear, with some unconfirmed reports, as recent as 1980, of his being alive in Soviet prison camps and other recent research which indicates that he may have died in the mid-sixties, after approximately 20 years of imprisonment in the Soviet Union; and

WHEREAS, On October 5, 1981, President Reagan signed into law a Joint Resolution proclaiming Raoul Wallenberg to be an honorary citizen of the United States; and

WHEREAS, Sponsored in part by Representative Tom Lantos who was a young Hungarian Jew whose life was saved by Wallenberg's heroic efforts, the resolution represents only the second time the United States has granted honorary citizenship; the first was to Sir Winston Churchill; and

WHEREAS, The resolution also requested the President to ascertain from the Soviet Union the whereabouts of Raoul Wallenberg and to secure his return to freedom; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California joins with the United States government in honoring the memory of Raoul Wallenberg in California by naming October 5 of each year as "Raoul Wallenberg Day" and that the Legislature of the State of California respectfully memorializes the President and Vice President of the United States and the Secretary of State and Congress to take

whatever actions are necessary to ascertain from the Soviet Union an accounting to the world of the fate of this great humanitarian; and, be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of State, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 183

Assembly Joint Resolution No. 150—Relative to a pilot study on reporting United States trade statistics.

[Filed with Secretary of State September 14, 1984.]

WHEREAS, The business community in the state of California has long been affected by the way in which the United States Bureau of the Census collects and reports trade statistics. This method relies on the flow of goods through customs districts without regard to the point of origin of exports or the destination of imports, resulting in a highly distorted picture of actual trade patterns; and

WHEREAS, Exports are attributed to the customs district from which they leave the country. Since a great percentage of those products are sent overseas by air, they are likely to leave from Los Angeles International Airport for Asia or from eastern international air terminals for Europe, for example. Goods sent overland to Canada are reported as exports at points along the border. Similarly, the San Diego customs district reports goods moving through the county to Mexico as if they were all San Diego products, and as if they accounted for 90 percent of the area's total export sales; and

WHEREAS, The consequences of the present methodology for cities like San Diego are significant. Government services to communities are often based on this statistical evidence of trade. Banking institutions and other business service organizations may rely on the data to determine their level of community presence. The United States government itself lacks an accurate description of America's trade relationships; and

WHEREAS, Current reporting practice is based on the flow of goods through customs districts without regard for the origin of outgoing shipments or the destination of inbound goods; and

WHEREAS, A strong possibility exists that the Bureau of the Census will conduct a pilot study to determine the feasibility of collecting and reporting trade data by three-digit zip codes. This would have the effect of more accurately detailing the origin of exports and the destination of imports. The results of a procedure based on three-digit zip codes would be greatly beneficial for the

trade promotion efforts not only of the state of California but also of the nation. For the first time the United States would have accurate data on which to base the allocation of resources for trade assistance programs such as marketing, licensing, and export finance; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully urges the United States Bureau of the Census to conduct a pilot project to improve the reporting of United States trade statistics, using a three-digit zip code reporting system and using the appropriate cities in California as the subjects of this study; and be it further

Resolved, That the United States Congress is respectfully urged to appropriate any necessary funds required by the Bureau of the Census to successfully complete this project; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of the United States Bureau of the Census, to the President and Vice President of the United States, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 184

Senate Concurrent Resolution No. 93—Relative to the California Museum of Science and Industry.

[Filed with Secretary of State September 14, 1984.]

WHEREAS, The Los Angeles Olympic Organizing Committee made various improvements to the grounds of the California Museum of Science and Industry for the 1984 Olympic Games; and

WHEREAS, These improvements include park benches, the tower in the museum parking lot, new fencing and fence posts, ticket booths, information and refreshment stands, and shrubbery; and

WHEREAS, The park benches would provide outdoor sitting areas; and

WHEREAS, The tower in the museum parking lot would be used to augment the museum's outdoor exhibits; and

WHEREAS, Utilization of portions of the fences erected by the Los Angeles Olympic Organizing Committee would enable the museum to provide a higher level of security and traffic control and would allow a reduced schedule of security checks, thereby decreasing security costs and saving the state almost one hundred thousand dollars ($100,000); and

WHEREAS, Certain posts erected for signs on the fence lines could be used as support stanchions for temporary exhibits in the museum resulting in cost savings to the state; and

WHEREAS, Certain of the ticket booths, information stand areas, and refreshment booths could be used during major activities at the Coliseum and Sports Arena, thereby reducing the need for additional manpower and costs to the state; and

WHEREAS, Shrubbery and other plants provided by the Los Angeles Olympic Organizing Committee would enhance the appearance of the park; and

WHEREAS, Many of these improvements, if left with the museum, would therefore, be of great value and could enhance the museum for all of its visitors from California and the rest of the world; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Los Angeles Olympic Organizing Committee is requested to meet with the directors of the California Museum of Science and Industry to determine which of the improvements that were made to the museum for the 1984 Olympic Games could be left and to donate those improvements for the good of the residents of this state; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Los Angeles Olympic Organizing Committee.

RESOLUTION CHAPTER 185

Relative to commending Peter V. Ueberroth, President of the Los Angeles Olympic Organizing Committee.

[Filed with Secretary of State September 14, 1984.]

WHEREAS, Peter V. Ueberroth was selected as President of the Los Angeles Olympic Organizing Committee, which organized the Games of the XXIIIrd Olympiad in Los Angeles, where the people of California and the host city warmly welcomed Olympic teams from 140 nations; and

WHEREAS, Under Peter Ueberroth, the XXIIIrd Olympiad was privately-sponsored and financed for the first time in the history of the modern Olympic movement; and

WHEREAS, Peter Ueberroth used his unique leadership skills and charisma to obtain generous financial contributions, construction of Olympic facilities, and public relations support from the nation's businesses and civic leaders; and

WHEREAS, Peter Ueberroth worked closely with the federal, state, and local governments involved in the Games of the XXIIIrd Olympiad, which were conducted at no cost to local taxpayers; and

WHEREAS, Peter Ueberroth's work with LAOOC Chairman Paul Ziffren and Executive Vice President Harry L. Usher produced perhaps the greatest show ever staged--a show which was viewed by more people than any other event in history; and

WHEREAS, The LAOOC painstakingly administered a budget of $500 million, all of it derived from private sources, and it skillfully coordinated the activities of approximately 50,000 volunteers; and

WHEREAS, The excellent performance of the 597-member U.S. Olympic Team did much to rekindle American pride, and the spectacular staging of the Games did credit to the tradition of the Olympic Games as a celebration of sport and an effort to unite the youth of the world in peace; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California offers a special salute to Peter V. Ueberroth for accepting an historic mission--to make the Games of the XXIIIrd Olympiad the best ever--and for succeeding in a grand fashion; and be it further

Resolved, That the Legislature of the State of California offers its commendation to Los Angeles Mayor Tom Bradley, the Los Angeles City Council, the Los Angeles County Supervisors, and the Members of the Legislature, who contributed so much to the 1984 Summer Olympic Games; and be it further

Resolved, That the Secretary of the Senate transmit suitably prepared copies of this resolution to Peter V. Ueberroth, Paul Ziffren, Harry L. Usher, and the Honorable Tom Bradley.

RESOLUTION CHAPTER 186

Senate Concurrent Resolution No. 95—Relative to commending Harry L. Usher.

[Filed with Secretary of State September 14, 1984.]

WHEREAS, Harry L. Usher has completed almost five years of service as Executive Vice President and General Manager of the Los Angeles Olympic Organizing Committee; and

WHEREAS, A prominent Beverly Hills attorney, Harry L. Usher graduated from Brown University, where he was a member of Phi Beta Kappa, in 1961, and from Stanford Law School, where he was an editor of the Law Review and earned membership in the Order of the Coif, in 1964; and

WHEREAS, A specialist in entertainment law, Harry L. Usher is a past president of the Beverly Hills Bar Association, and he has served as a member of the Board of Trustees of the Los Angeles County Bar Association and as first Vice President of the California Barristers Association; and

WHEREAS, As Executive Vice President and General Manager of the Los Angeles Olympic Organizing Committee, Harry L. Usher negotiated contracts with governmental agencies, sponsors, and merchandising firms, and his work helped make the Summer Olympics the most successful Olympiad of modern times; and

WHEREAS, The extraordinary success of the Games of the XXIIIrd Olympiad has brought great pride and satisfaction to the people of the State of California and, as Executive Vice President and General Manager, Harry L. Usher deserves a large share of the credit for that success; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Members, on behalf of themselves and the people of the State of California, express to Harry L. Usher their admiration and respect for the immensity of his task and for the magnificence of his accomplishments; and be it further

Resolved, That the Members express to Harry L. Usher the heartfelt thanks of the people of the State of California and the sincere wish for every success in his future endeavors; and be it further

Resolved, That the Secretary of the Senate transmit a suitably prepared copy of this resolution to Harry L. Usher.

RESOLUTION CHAPTER 187

Senate Joint Resolution No. 32—Relative to the commercial whaling moratorium.

[Filed with Secretary of State September 14, 1984.]

WHEREAS, Whales are an integral part of the world's natural heritage and play a vital role in maintaining the productivity of the marine ecosystem; and

WHEREAS, Californians and their visitors continue to show their increasing interest in and awe of these amazing marine mammals by undertaking whale-watching trips, which have become an increasingly important part of California's coastal recreation and tourism industry; and

WHEREAS, The populations of the great whales have been devastated systematically by commercial whaling, and limited time remains to protect these cetaceans; and

WHEREAS, Millions of citizens of the United States and millions of citizens worldwide have demanded an end to the slaughter of whales by commercial whalers; and

WHEREAS, The President and Congress of the United States have articulated the deep concern of the American people for the plight of these mammals since 1971 through the passage of protective legislation and by calling repeatedly for a worldwide moratorium on commercial whaling; and

WHEREAS, The epochal decision of the International Whaling Commission in July 1982 to halt commercial whaling beginning in 1986 was threatened by the governments of Japan, Norway, Peru, and the Soviet Union, which filed objections to the decision during

1982; and

WHEREAS, The Pelly amendment (1971) to the Fishermen's Protective Act of 1967 authorizes the government of the United States to embargo imports of fish products from nations certified by the Secretary of State or the Secretary of Commerce as having taken action that "diminished the effectiveness" of international fisheries conservation programs such as International Whaling Commission rulings; and

WHEREAS, The Packwood-Magnuson amendment (1979) to the Magnuson Fisheries Conservation and Management Act of 1976 authorizes the government of the United States to cut fishing rights of nations certified by the Secretary of State or the Secretary of Commerce as violating international whaling agreements by 50 percent or more within the 200-nautical-mile Fisheries Conservation Zone of the United States; and

WHEREAS, The Pelly and Packwood-Magnuson amendments cannot be implemented until 1986 when the government of the United States can certify that nations are whaling in violation of the International Whaling Commission action; and

WHEREAS, Sixty-six United States Senators joined in a letter to the Secretary of Commerce in August 1982, calling for the use of the Pelly and Packwood-Magnuson amendments and "other means available to the United States" to obtain worldwide compliance with the International Whaling Commission decision, and Members of the United States House of Representatives have expressed a similar view; and

WHEREAS, The government of Peru withdrew its objection to the commercial whaling moratorium at the July 1983 meeting of the International Whaling Commission, and this action was due, in part, to the intense concern expressed by citizens throughout the world; and

WHEREAS, The United States Senate in July 1983 unanimously reaffirmed its commitment to the use of sanctions in order to ensure that the moratorium is implemented effectively; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California joins the United States Senate in respectfully memorializing the Secretary of State and the Secretary of Commerce to use appropriate diplomatic and legal means to achieve worldwide compliance with the International Whaling Commission moratorium decision; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 188

Senate Joint Resolution No. 38—Relative to the pollution and contamination of the New River.

[Filed with Secretary of State September 14, 1984.]

WHEREAS, The New River, which originates in Mexico and flows northward across the International Boundary into California's Imperial Valley, is the most contaminated stream in the United States relative to its flow, a gross public health hazard, and an aesthetically repulsive spectacle to over 40,000 United States residents of communities along the river's course, as well as to visitors from the nearby metropolitan centers; and

WHEREAS, Contaminated waters of the New River discharge into the Salton Sea, a condition incompatible with the ecology and the varied public uses of that body of water in one of southern California's most important recreational areas; and

WHEREAS, Contamination of the New River is caused by uncontrolled discharges of raw and inadequately treated sewage, highly toxic industrial chemical wastes, solid wastes, geothermal wastes, leaching from a major garbage dump, slaughterhouse wastes, and other wastes discharged by the municipal government and industries within or near the City of Mexicali in Mexico; and

WHEREAS, Contaminating discharges from the vicinity of Mexicali, Mexico, have continued for a recorded period of over 40 years, during which time the city's population has increased to approximately 750,000, while the area has developed into a major industrial center; and

WHEREAS, The magnitude of the resulting waste discharge is comparable to that from a city the size of San Francisco, if that city's sewage and industrial waste could be imagined as flowing untreated in an open channel through urban and rural areas; and

WHEREAS, Mexicali's sewer system, which covers only a portion of the city and which includes two pumping stations and treatment lagoons, has not been expanded and improved sufficiently to keep pace with the very rapid growth of Mexicali and its increasing industrial developments, and Mexican authorities have not adequately maintained the facilities so that there are frequent breakdowns; and

WHEREAS, In order to elevate New River water quality to standards required for comparable streams in the United States, numerous problems must be addressed, and an explanation of the entire array of problems to be addressed can only be determined following studies by the Environmental Protection Agency in coordination with California state agencies and in cooperation with authorities of the United Mexican States; and

WHEREAS, A preliminary indication of the problems to be addressed are as follows:

(a) Elimination of all point-source discharges of raw sewage into the New River, particularly the eight major sources presently identified.

(b) Relocation and sewering of unsewered residences situated along the banks of the New River and its tributaries.

(c) Enforced prohibition against septic tank pumpers discharging their tank contents into the New River system.

(d) Upgrading and effective operation of pumping plants No. 1 and No. 2 of Mexicali's sewer collection system, so that no raw sewage, under any circumstances, is bypassed into the New River system.

(e) Replacement of deteriorating sewer pipelines along Mexicali's north and south collectors to eliminate breaks that result in raw sewage discharges into the New River system.

(f) Upgrading of Mexicali's sewage treatment lagoons to provide a secondary level of treatment.

(g) Segregation and separate treatment of domestic wastes from toxic industrial wastes presently being discharged to Mexicali's sewer system.

(h) Prevention of all untreated or inadequately treated industrial wastes from spillage into the New River and its tributaries.

(i) Prevention, by any means necessary, of the discharge of wastes from slaughterhouses, hog farms, and dairies into the New River and its tributaries.

(j) Relocation of Mexicali's landfill garbage dump away from the New River and its tributaries.

(k) Rerouting of geothermal wastewater away from the New River system; and

WHEREAS, The quickest and least costly procedures to correct current pollution problems are source-controls within Mexicali, but history confirms that Mexico's federal, state, and municipal governments have been incapable of effectively imposing these controls; and

WHEREAS, The President of the United States and the President of the United Mexican States signed an agreement on August 14, 1983, titled "Agreement Between the United States of America and the United Mexican States on Cooperation for the Protection and Improvement of the Environment in the Border Area," Article 8 of which designates the Environmental Protection Agency as the national coordinator for the United States; and

WHEREAS, It is the obligation of the United States Government, on behalf of the residents of Imperial Valley, to obtain adequate correction of the gross pollution and contamination of the New River from discharges within the United Mexican States; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to appropriately recognize and declare that a clear and present threat

to public health and safety exists in the Imperial Valley of California as a direct consequence of continuing toxic contamination and organic pollution of the New River, originating within Baja California, Mexico, requiring immediate and comprehensive mitigation through cooperative international initiatives; and be it further

Resolved, That the President is respectfully requested to immediately direct the Secretary of State and the Administrator of the Environmental Protection Agency, in cooperation with authorities of the State of California, the California Regional Water Quality Control Board (Colorado River Basin Region), and the County of Imperial, to expedite the development of alternative proposals and a recommended plan for halting the flow of contaminants and pollutants in the New River from both Baja California and California sources; and be it further

Resolved, That the Congress is respectfully requested to appropriate, and the President is respectfully urged to allocate and direct, sufficient federal funding, staffing, and technical resources for the implementation and completion of an effective water quality control system within the New River watershed, with the active cooperation of the government of the United Mexican States; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 189

Assembly Concurrent Resolution No. 168—Relative to the National Hispanic University.

[Filed with Secretary of State September 17, 1984]

WHEREAS, Hispanics, numbering over five million, comprise nearly 25 percent of California's population; and

WHEREAS, One out of every three students in California's public schools is Hispanic; and

WHEREAS, 55 percent of those Hispanic students drop out of high school; and

WHEREAS, Only 14 percent of the freshman enrollment of California's public institutions of higher education is Hispanic; and

WHEREAS, 80 percent of Hispanic freshmen are enrolled in the California Community Colleges, and only 7 percent of those community college students transfer and continue their education at four-year colleges and universities; and

WHEREAS, Hispanic student enrollment in programs leading to professional degrees in engineering, medicine, education, or business is less than 5 percent, and is declining; and

WHEREAS, The National Hispanic University has the principal mission of affording Hispanics greater access to, and success in, higher education and the professions; and

WHEREAS, For over a decade, the National Hispanic University has provided successful leadership in efforts to increase the access to higher education in the state for Hispanics; and

WHEREAS, Through its educational concept of providing high expectations of success, role models, and student support systems, the National Hispanic University has competently addressed California's most serious challenge in higher education; and

WHEREAS, The National Hispanic University has earned the support of all major national Hispanic organizations and of many leading state and national corporations; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the National Hispanic University be recognized and commended for being the only postsecondary educational institution in California authorized to grant degrees which has the primary mission of improving Hispanic students' access to, and success in, higher education; and be it further

Resolved, That the various departments and agencies responsible for public education in the state recognize that the National Hispanic University has a noble and necessary mission which is a significant part of higher education in California.

RESOLUTION CHAPTER 190

Assembly Joint Resolution No. 75—Relative to the creation of a United States-Soviet Union student exchange for peace program.

[Filed with Secretary of State September 17, 1984.]

WHEREAS, One of the most critical challenges facing the United States and the Soviet Union is the establishment of peaceful ties and the prevention of hostilities; and

WHEREAS, Ties of culture and friendship between our two countries need to be expanded; and

WHEREAS, The great threat to peace between our two nations is the absence of close ties and mutual trust; and

WHEREAS, Young people are a nation's greatest resource and its most treasured asset; and

WHEREAS, The arms race between the Soviet Union and the United States is a wasteful and counterproductive process which may some day lead to global catastrophe; and

WHEREAS, Creative strategies will be necessary if the spiraling

production of weapons of war is to be brought under control; and

WHEREAS, Congressman Morris Udall has introduced in the United States House of Representatives a resolution requesting the creation of a United States-Soviet Union student exchange for peace program; and

WHEREAS, If there were 2,000 Americans in the Soviet Union and if there were 2,000 Soviets in the United States, a nuclear attack between the Soviet Union and the United States would be much less likely; and

WHEREAS, If annual exchanges of 2,000 people from each country—part of a massive exchange program paid for by the various governments and private contributions—became an instrument of the foreign policies of the United States and the Soviet Union, a positive cultural force for peace would begin to grow among the participating countries; and

WHEREAS, Participants in this program would include children of civic, political, cultural, and other government leaders—men and women representative of the many diverse ethnic, religious, and socioeconomic groups of the United States and the Soviet Union; and

WHEREAS, Participants in the program could be housed with private families or in dormitories around the host country for one year, and this program would create an ever-expanding network of personal relationships helping to promote mutual understanding among citizens of the United States and the Soviet Union; and

WHEREAS, As the years pass, and with the growth, in participating countries, of the numbers of people whose lives would have been touched by the program, barriers of distrust would break down, making a negotiated resolution of the arms race more feasible; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully urges the United States Senate and House of Representatives to support and approve legislation which would effectuate a student exchange program between the United States and the Soviet Union; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the President of the United States to commence negotiations with the Soviet Union which would effectuate an agreement establishing an exchange program; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the United States Senate to ratify a treaty with the Soviet Union which may be necessary to bring an exchange program into existence; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the Congress of the United States to authorize expenditures necessary to administer such a program should an agreement be reached with the Soviet Union and given the consent of the Senate; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 191

Assembly Joint Resolution No. 76—Relative to implementation of a nuclear freeze.

[Filed with Secretary of State September 17, 1984.]

WHEREAS, Nuclear war is the greatest threat facing humankind; and

WHEREAS, Nuclear war would devastate and quite possibly end civilization as we know it; and

WHEREAS, The increased growth of nuclear weaponry accelerates the possibility of nuclear holocaust; and

WHEREAS, The United States of America and the Soviet Union now both possess sufficient nuclear weapons to destroy each others country several times over; and

WHEREAS, Both the United States of America and the Soviet Union each possess first strike nuclear weapons; and

WHEREAS, There is an increasing possibility of accidental nuclear weapon launches; and

WHEREAS, A freeze, reduction, and ultimate elimination of nuclear weaponry by all the countries of the world who possess them would vastly improve the possibility for conversion to a peacetime economy thereby creating jobs, rebuilding the United States of America, and shifting revenues into the domestic area; and

WHEREAS, The people of the State of California approved a bilateral nuclear weapons freeze initiative in November of 1982; and

WHEREAS, The United States House of Representatives demonstrated responsible judgment and acknowledged the will of the people in voting overwhelmingly in favor of a verifiable bilateral nuclear freeze known as HJR 13 on May 4, 1983; and

WHEREAS, A verifiable, bilateral nuclear weapon freeze followed by a verifiable reduction in the number of nuclear weapons held by the countries of the world would eliminate the threat of holocaust, because there is no such thing as limited nuclear war; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Senate of the United States to approve a Senate Joint Resolution which would bring about an arms control objective which would encompass:

(1) Immediate bilateral cessation to the implementation and deployment of nuclear weapons.

(2) Development by the United States and the Soviet Union of a plan which would verify a freeze of nuclear weaponry.

(3) Special regard to weapons which could undermine the stability of a freeze of nuclear weaponry.

(4) Implementation of a freeze of nuclear weapons, upon which the United States of America and the Soviet Union would work toward a reduction in all nuclear weapons including, but not limited to: missiles, warheads, and delivery systems; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives and to each Senator and Representative from California in the Congress of the United States.

1983–84

SECOND EXTRAORDINARY SESSION

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

A PROCLAMATION
by the Governor of the State of California

WHEREAS, an extraordinary occasion has arisen and now exists requiring that the Legislature of the State of California be convened in extraordinary session; now therefore,

I, GEORGE DEUKMEJIAN, Governor of the State of California, by virtue of the power and authority vested in me by Section 3(b) of Article IV of the Constitution of the State of California, do hereby convene the Legislature of the State of California to meet in extraordinary session at Sacramento, California on the 19th day of January, 1984, for the following purpose and to legislate upon the following subject:

1. To consider and act upon legislation relative to community college financing.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 19th day of January 1984

George Deukmejian
Governor of California

ATTEST:

March Fong Eu
Secretary of State

by Jenny Little
Deputy Secretary of State

STATUTES OF CALIFORNIA

1983–84

SECOND EXTRAORDINARY SESSION

1983–84 CHAPTERS

CHAPTER 1

An act to amend Sections 72247, 84700, 84701, 84702, and 84706 of, to amend and repeal Sections 32033, 72640, and 72641 of, to add and repeal Sections 72246.5 and 72252 of, and to repeal and add Sections 72245, 72246, 72250.5, 72251, 78930, 81458, and 82305.6 of, the Education Code, relating to community colleges, and making an appropriation therefor.

[Approved by Governor January 26, 1984. Filed with Secretary of State January 26, 1984]

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

SECTION 1. It is the intent of the Legislature that:

(a) Community colleges remain a low-cost segment of public postsecondary education.

(b) Financial assistance shall be provided for all low-income students attending community college upon the imposition of fees.

(c) The costs assessed of students in the 1983–84 fiscal year for instructional materials pursuant to Section 78930 be eliminated and funded directly in subsequent fiscal years from the revenues prescribed by this act.

(d) The Legislature further recognizes and shares the Governor's intention that community college fees not be increased above the levels prescribed by this act.

(e) For semesters, terms, and quarters which begin after January 1, 1988, the total fees and charges paid by students pursuant to Section 72252 of the Education Code, as added by Section 7 of this act, shall not exceed 5 percent of the total of state apportionments and local property tax revenues per unit of credit average daily attendance.

SEC. 2. Section 32033 of the Education Code is amended to read:

32033. The eye protective devices may be sold to the pupils and teachers at a price which shall not exceed the actual cost of the eye protective devices to the school or governing board.

This section shall not apply to the governing board of a community college district.

This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1988, pursuant to Section 9611 of the Government Code, Section 32033 of the Education Code, as added by Section 2 of Chapter 1010 of the Statutes of 1976, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 3. Section 72245 of the Education Code is repealed.

SEC. 3.5. Section 72245 is added to the Education Code, to read:

72245. The governing board of a community college district may impose a fee on a participating student for the additional expenses

incurred when physical education courses are required to use nondistrict facilities.

This section shall become operative January 1, 1988.

SEC. 4. Section 72246 of the Education Code is repealed.

SEC. 4.5. Section 72246 is added to the Education Code, to read:

72246. (a) The governing board of a district maintaining a community college may require community college students to pay a fee in the total amount of not more than seven dollars and fifty cents ($7.50) for each semester, and five dollars ($5) for summer school, or five dollars ($5) for each quarter for health supervision and services, including direct or indirect medical and hospitalization services, or the operation of a student health center or centers, authorized by Section 72244, or both.

(b) If pursuant to this section a fee is required, the governing board of a district shall decide the amount of the fee, if any, that a part-time student is required to pay. The governing board may decide whether the fee shall be mandatory or optional.

(c) The governing board of a district maintaining a community college shall adopt rules and regulations that either exempt low-income students from any fee required pursuant to subdivision (a) or provide for the payment of the fee from other sources.

(d) The governing board of a district maintaining a community college shall adopt rules and regulations that exempt from any fee required pursuant to subdivision (a): (1) students who depend exclusively upon prayer for healing in accordance with the teachings of a bona fide religious sect, denomination, or organization; (2) students who are attending a community college under an approved apprenticeship training program.

(e) All fees collected pursuant to this section shall be deposited in the fund of the district designated by the California Community Colleges Budget and Accounting Manual. These fees shall be expended only for the purposes for which they were collected.

Authorized expenditures shall not include, among other things, athletic trainers' salaries, athletic insurance, medical supplies for athletics, physical examinations for intercollegiate athletics, ambulance services and the salaries of health professionals for athletic events, any deductible portion of accident claims filed for athletic team members, or any other expense that is not available to all students. No student shall be denied a service supported by student health fees on account of participation in athletic programs.

(f) This section shall become operative January 1, 1988.

SEC. 4.7. Section 72246.5 is added to the Education Code, to read:

72246.5. Any community college district which provided health services for which it was authorized to charge a fee pursuant to former Section 72246 in the 1983–84 fiscal year shall maintain health services at the level provided during the 1983–84 fiscal year in the 1984–85 fiscal year and each fiscal year thereafter. This maintenance of effort requirement shall apply to all community college districts which levied a health services fee in the 1983–84 fiscal year,

regardless of the extent to which the health services fees collected offset the actual costs of providing health services at the 1983–84 fiscal year level.

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

SEC. 5. Section 72247 of the Education Code is amended to read:

72247. The governing board of a community college district may require of students in attendance in grades 13 and 14 and employees of the district, the payment of a toll, in an amount not to exceed twenty dollars ($20) per semester or forty dollars ($40) per regular school year to be fixed by the board, for parking services.

Such toll shall only be required of students and employees using parking services.

All such tolls collected shall be deposited in the designated fund of the district in accordance with the California Community Colleges Budget and Accounting Manual and shall be expended only for parking services or for purposes of reducing the costs to students and faculty of the college of using public transportation to and from the college.

Tolls collected for use of parking services provided for by investment of student body funds under the authority of Section 76064 shall be deposited in a designated fund in accordance with the California Community Colleges Budget and Accounting Manual for repayment to the student organization.

"Parking services," as used in this section, means the purchase, construction, and operation and maintenance of parking facilities for vehicles and motor vehicles as defined by Sections 415 and 670 of the Vehicle Code, and the reduction of costs to students and faculty of using public transportation to and from the college.

In no event may the fee required pursuant to this section exceed the actual cost of providing parking services.

SEC. 5.5. Section 72250.5 of the Education Code is repealed.

SEC. 5.7. Section 72250.5 is added to the Education Code, to read:

72250.5. The governing board of a community college district may impose a fee, not to exceed one dollar ($1), for the actual pro rata cost for services relative to a program change consisting of adding one or more courses any time after two weeks from the commencement of instruction in any term. Such fee shall not be charged for changes initiated or required by the community college.

This section shall become operative January 1, 1988.

SEC. 6. Section 72251 of the Education Code is repealed.

SEC. 6.5. Section 72251 is added to the Education Code, to read:

72251. The governing board of any community college district may impose a late application fee of not to exceed two dollars ($2) for any application for admission or readmission which is filed after the date established by the governing board for the filing of applications for admission or readmission to the community college.

This section shall become operative January 1, 1988.

SEC. 7. Section 72252 is added to the Education Code, to read:

72252. (a) Commencing with the semester, term, or quarter which begins after July 31, 1984, the governing board of each community college district shall charge each student a fee, pursuant to the provisions of this section.

(b) The fee prescribed by this section shall equal fifty dollars ($50) per semester for students enrolled in classes totaling six or more credit semester units, and five dollars ($5) per unit per semester for students enrolled in classes totaling less than six credit semester units.

The chancellor shall proportionately adjust the amount of the fee for term lengths based upon a quarter system or other alternative system approved pursuant to Section 78002.

(c) For the purposes of computing apportionments to community college districts, 98 percent of the revenues received by districts from charging a fee pursuant to this section or from reimbursements received for fees exempted pursuant to subdivision (f) shall be deemed to be local property tax revenue within the meaning of subdivision (b) of Section 84700.

(d) The chancellor shall reduce apportionments by up to 10 percent to any district which does not collect the fees prescribed by this section.

(e) The fee requirement shall not apply to students enrolled in the noncredit courses designated by Section 84711.

(f) The fee requirements of this section shall not apply to a student who, at the time of enrollment, is a recipient of benefits under the Aid to Families with Dependent Children program, the Supplemental Security Income/State Supplementary program, or the General Assistance Program.

(g) The board of governors shall adopt regulations implementing the provisions of this section as regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

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

SEC. 8. Section 72640 of the Education Code is amended to read:

72640. The governing board of a community college district may:

(a) Conduct field trips or excursions in connection with courses of instruction or school-related social, educational, cultural, athletic, or college band activities to and from places in the state, any other state, the District of Columbia, or a foreign country for students enrolled in a college. A field trip or excursion to and from a foreign country may be permitted to familiarize students with the language, history, geography, natural sciences, and other studies relative to the district's course of study for such pupils.

(b) Engage such instructors, supervisors, and other personnel as desire to contribute their services over and above the normal period for which they are employed by the district, if necessary, and provide

equipment and supplies for such field trip or excursion.

(c) Transport by use of district equipment, contract to provide transportation, or arrange transportation by the use of other equipment, of students, instructors, supervisors or other personnel to and from places in the state, any other state, the District of Columbia, or a foreign country where such excursions and field trips are being conducted; provided that, when district equipment is used, the governing board shall secure liability insurance, and if travel is to and from a foreign country, such liability insurance shall be secured from a carrier licensed to transact insurance business in such foreign country.

(d) Provide supervision of students involved in field trips or excursions by certificated employees of the district.

No student shall be required to pay a fee to participate in an instructionally related field trip or excursion within the state.

No student shall be prevented from making the field trip or excursion because of lack of sufficient funds. To this end, the governing board shall coordinate efforts of community service groups to supply funds for students in need of them.

No group shall be authorized to take a field trip or excursion authorized by this section if any student who is a member of such an identifiable group will be excluded from participation in the field trip or excursion because of lack of sufficient funds.

No expenses of students participating in a field trip or excursion to any other state, the District of Columbia, or a foreign country authorized by this section shall be paid with district funds. Expenses of instructors, chaperons, and other personnel participating in a field trip or excursion authorized by this section may be paid from district funds, and the district may pay from district funds all incidental expenses for the use of district equipment during a field trip or excursion authorized by this section.

The attendance or participation of a student in a field trip or excursion authorized by this section shall be considered attendance for the purpose of crediting attendance for apportionments from the State School Fund in the fiscal year. Credited attendance resulting from such field trip or excursion shall be limited to the amount of attendance which would have accrued had the students not been engaged in the field trip or excursion. No more contact hours shall be generated by a field trip or excursion than if the class were held on campus.

All persons making the field trip or excursion shall be deemed to have waived all claims against the district or the State of California for injury, accident, illness, or death occurring during or by reason of the field trip or excursion. All adults taking out-of-state field trips or excursions and all parents or guardians of students taking out-of-state field trips or excursions shall sign a statement waiving such claims.

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

enacted before January 1, 1988, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1988, pursuant to Section 9611 of the Government Code, Section 72640 of the Education Code, as amended by Section 76 of Chapter 797 of the Statutes of 1979, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 9. Section 72641 of the Education Code is amended to read:

72641. The governing board of any community college district conducting excursions and field trips pursuant to this article shall provide, or make available, medical or hospital service, or both, through nonprofit membership corporations defraying the cost of medical service or hospital service, or both, or through group, blanket or individual policies of accident insurance from authorized insurer, for students of the district injured while participating in such excursions and field trips under the jurisdiction of, or sponsored or controlled by, the district or the authorities of any college of the district. The cost of the insurance or membership shall be paid from the funds of the district.

The insurance may be purchased from, or the membership may be taken in, only such companies or corporations as are authorized to do business in this state.

This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1988, pursuant to Section 9611 of the Government Code, Section 72641 of the Education Code, as added by Section 2 of Chapter 1010 of the Statutes of 1976, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 10. Section 78930 of the Education Code is repealed.

SEC. 10.5. Section 78930 is added to the Education Code, to read:

78930. (a) The governing board of a community college district may charge a reasonable fee for instructional materials provided to any student enrolled in its college or colleges. Fees for instructional materials shall be established so as to not exceed the actual cost to the district in providing such materials, and the materials themselves shall be tangible personal property which is owned or controlled by the student.

(b) "Instructional materials" means all material designed for use by students and their instructors as a learning resource and which help students to acquire facts, skills, or opinions or to develop cognitive processes. Instructional materials may be printed or nonprinted and may include textbooks and educational materials, but not tests. Educational materials are defined to mean any audiovisual or manipulative device including, but not limited to, films, tapes, flashcards, kits, phonograph records, study prints, graphs, charts, and multimedia systems.

(c) This section shall become operative January 1, 1988.

SEC. 11. Section 81458 of the Education Code is repealed.

SEC. 11.5. Section 81458 is added to the Education Code, to read:

81458. The governing board of a community college district may sell to persons enrolled in classes for adults maintained by the district such materials as may be necessary for the making of articles by such persons in such classes. The materials shall be sold at not less than the cost thereof to the district and any article made therefrom shall be the property of the person making it.

This section shall become operative January 1, 1988.

SEC. 12. Section 82305.6 of the Education Code is repealed.

SEC. 12.5. Section 82305.6 is added to the Education Code, to read:

82305.6. When the governing board of a community college district provides for the transportation of students to and from community colleges, the governing board of the district may require the parents and guardians of all or some of the students transported, to pay a portion of the cost of such transportation in an amount determined by the governing board. The amount determined by the board shall be no greater than that paid for transportation on a common carrier or municipally owned transit system by other students in the district who do not use the transportation provided by the district. The governing board shall exempt from such charges students of parents and guardians who are indigent as set forth in rules and regulations adopted by the board. No charge under this section shall be made for the transportation of handicapped students. Nothing in this section shall be construed to sanction, perpetuate, or promote the racial or ethnic segregation of students in the community colleges.

This section shall become operative January 1, 1988.

SEC. 13. Section 84700 of the Education Code is amended to read:

84700. For the 1983–84 fiscal year, and each fiscal year thereafter, the chancellor shall apportion state aid to community college districts according to the following procedure:

(a) The fiscal year revenues for each community college district shall be its base revenues as defined in Section 84701, plus or minus the average daily attendance adjustments based on incremental cost adjustments prescribed in Sections 84702 and 84702.5, plus the equalization adjustment specified in Section 84703, plus the inflation adjustment specified in Section 84704, plus the equalization adjustment specified in Section 84705.

(b) For each community college district, the chancellor shall subtract from the revenues determined pursuant to subdivision (a), the local property tax revenue specified by law for general operating support, exclusive of bond interest and redemption and including 98 percent of the fee revenues collected pursuant to Section 72252 and of reimbursements received for fees exempted pursuant to subdivision (f) of Section 72252, and motor vehicle license fees received pursuant to Section 11003.4 of the Revenue and Taxation Code, and timber yield tax revenue received pursuant to Section 38905 of the Revenue and Taxation Code. The remainder shall be the

state general apportionment for each district.

(c) The chancellor shall adjust the amount determined pursuant to subdivision (b) to provide for prior year adjustments required pursuant to Section 84330.

(d) The chancellor may, upon the demonstrated need of any community college district for increased levels of allocations of state funds in any month based on district expenditure patterns and cash flow needs, adjust the allocations provided in subdivision (e), provided that the total of the allocations to be made between July 1 and February 1 shall not exceed 70 percent.

(e) Warrants shall be drawn on the State Treasury by the Controller in favor of the treasurer of each county for the allocations certified by the Chancellor of the California Community Colleges for the period of July through January in accordance with the following schedule, as may be adjusted by the chancellor in accordance with provisions of subdivision (d):

(1) 8 percent of district eligibility shall be allocated in July.

(2) 8 percent of district eligibility shall be allocated in August.

(3) 12 percent of district eligibility shall be allocated in September.

(4) 10 percent of district eligibility shall be allocated in October.

(5) 9 percent of district eligibility shall be allocated in November.

(6) 5 percent of district eligibility shall be allocated in December.

(7) 8 percent of district eligibility shall be allocated in January.

SEC. 14. Section 84701 of the Education Code is amended to read:

84701. (a) The base 1983–84 fiscal year revenues for each community college district shall be the revenue computed for the 1982–83 fiscal year pursuant to Article 3 (commencing with Section 84620) less the adjustments made pursuant to paragraphs (2), (3), and (4) of subdivision (b) of Section 84630.5 and the adjustments made pursuant to Provisions 4 and 11 of Item 6870-101-001 of the Budget Act of 1982.

(b) For the 1984–85 fiscal year the base revenues for each community college district shall be the sum of revenues computed for the 1983–84 fiscal year pursuant to subdivision (a) of Section 84701, and Sections 84703, 84704, and 84705 provided that for any district the sum of the amounts computed pursuant to Sections 84703 and 84705 shall not exceed the amount computed pursuant to Section 84704. For the 1985–86 fiscal year and each fiscal year thereafter, the base revenues for each community college district shall be the revenues received for the preceding fiscal year in accordance with Section 84700, plus any unfunded shortage in local revenues identified pursuant to the provisions of Section 84712.

(c) The base fiscal year average daily attendance for each community college district shall be the lesser of the average daily attendance of the preceding fiscal year computed pursuant to Section 84500 as adjusted by Section 84895, if applicable, or the level of average daily attendance which, pursuant to the Budget Act or any other act, received full funding, consistent with provisions of Section

84702.5, in the preceding fiscal year.

(d) The noncredit base revenues for each community college district shall be equal to the units of funded noncredit average daily attendance within the base fiscal year average daily attendance determined pursuant to subdivision (c), multiplied by one thousand one hundred dollars ($1,100) plus applicable inflation adjustments for preceding years subsequent to the 1982–83 fiscal year.

(e) The credit base revenues for each community college district shall be equal to the district's base revenues determined pursuant to subdivision (a) or (b) as appropriate, less the district's noncredit base revenue determined pursuant to subdivision (d).

(f) (1) Funded noncredit average daily attendance for a community college district, for a fiscal year, shall be the lesser of the actual number of noncredit average daily attendance generated for that year or the sum of the noncredit average daily attendance funded for the preceding fiscal year plus allowable increases in noncredit average daily attendance based on the percentage of increase allowance provided for the district through provisions of Section 84706.

(2) However, if the actual number of credit average daily attendance for the district is less than the sum of the number of credit average daily attendance funded for the preceding fiscal year plus allowable increases in credit average daily attendance based on the percentage of increase allowance provided in Section 84706, then the difference, represented in numbers of average daily attendance, shall be added to the number of funded noncredit average daily attendance determined pursuant to paragraph (1).

The number of funded noncredit average daily attendance so increased shall be greater than the sum of the number of noncredit average daily attendance funded for the preceding fiscal year plus allowable increases in noncredit average daily attendance based on the percentage of increase allowance provided for the district through provisions of Section 84706 but not greater than the actual number of noncredit average daily attendance generated.

(g) In establishing a district's funded credit and noncredit base average daily attendance for the 1983–84 fiscal year, the chancellor shall do both of the following:

(1) Calculate the ratios of total actual credit and noncredit average daily attendance generated to total actual average daily attendance generated in the 1982–83 fiscal year for the district.

(2) Apply the ratios calculated pursuant to paragraph (1) to the district's total average daily attendance for which the district received funding in the 1982–83 fiscal year.

(h) For fiscal year 1983–84, upon request of any district with credit and noncredit average daily attendance and which in the 1982–83 fiscal year generated a total average daily attendance exceeding 110 percent of its total funded average daily attendance, the chancellor may authorize an increase in the total base funded average daily attendance of the district by an amount not to exceed 5 percent of

the district's 1982–83 fiscal year funded average daily attendance. The authorized adjustment shall be further limited by an amount of average daily attendance not greater than that average daily attendance for the district that exceeded 110 percent of the district's funded average daily attendance.

(i) For purposes of determining each district's revenues per unit of funded credit average daily attendance, each district's base revenues determined pursuant to subdivision (a) or (b) of this section shall be reduced by the amount of the adjustment in base revenues to be made in subsequent years for declining average daily attendance in that district pursuant to subdivision (b) of Section 84702 and by the amount of noncredit base revenues of that district determined pursuant to subdivision (d) of Section 84701.

SEC. 15. Section 84702 of the Education Code is amended to read:

84702. The base revenues for each community college district shall be adjusted for changes in average daily attendance, subject to the funded growth limitations in Section 84706, according to the following procedure:

(a) The chancellor shall determine the net increase or net decrease in the number of actual units of average daily attendance of the district between the preceding fiscal year and the current fiscal year.

(b) In the event that the total actual average daily attendance of any community college district for the 1983–84 fiscal year is less than the district's fully funded average daily attendance for the 1982–83 fiscal year, the district shall be allowed to increase its average daily attendance in the 1984–85 fiscal year up to, but not in excess of, the level of its 1982–83 fully funded average daily attendance. The chancellor shall determine the extent to which each of these districts has increased its average daily attendance pursuant to these provisions and shall adjust the base revenues for the 1984–85 fiscal year by the appropriate incremental cost rate specified in Section 84702.5 to the extent of the difference between the average daily attendance generated by the district in the 1984–85 fiscal year and the level of the district's 1982–83 fiscal year fully funded average daily attendance.

For the 1984–85 fiscal year and each fiscal year thereafter, in the event that the total actual average daily attendance for the current fiscal year is less than the base average daily attendance, the chancellor shall adjust the base revenues for the community college district for the subsequent year by the appropriate incremental cost rates specified in Section 84702.5.

(c) Except as provided in subdivision (b) with regard to the 1984–85 fiscal year, in the event that the total actual average daily attendance for the current fiscal year is greater than the base average daily attendance, the chancellor shall adjust the base revenues for the community college district for the current year by the appropriate incremental cost rate specified in Section 84702.5.

SEC. 16. Section 84706 of the Education Code is amended to read:

84706. (a) For the purpose of this article, average daily attendance shall include only the attendance of state residents, except as provided in Section 78462, attending within the district. All attendance of all students shall be reported in accordance with instructions provided by the chancellor.

(b) Community college districts shall be allowed to increase their funded average daily attendance over the prior year as determined by the chancellor in accordance with the following procedures:

(1) For the 1983–84 fiscal year, districts may be allowed to increase their funded average daily attendance to the level funded in the 1981–82 fiscal year less the adjustments made pursuant to Provision 11 of Item 6870-101-001 of the Budget Act of 1982. Increases for each district provided by this paragraph shall be in addition to the increases provided by paragraphs (2) and (4) and shall be allowed only to the extent that increases in statewide average daily attendance provided by this section, exclusive of paragraph (4), does not exceed the rate of change of the adult population of the state as determined by the Department of Finance, or funds remain available statewide pursuant to paragraph (3).

(2) Increases in statewide average daily attendance shall be based on the rate of change of the adult population of the state as determined by the Department of Finance. The allocation of changes on a district-by-district basis shall be determined by the chancellor, based on such factors as the rate of change in the adult population, as determined by the Department of Finance, unemployment, refugee population, and adult participation in the district. The chancellor shall allocate at least 0.01 times the base average daily attendance of the district or 100 units of average daily attendance, whichever is greater, unless adjusted pursuant to paragraph (5) of this subdivision.

The statewide adult population percentage change reported by the Department of Finance shall be based on the resident adult population 18 years of age and older and shall be consistent with actual and projected adult population data reported for like purposes. The percentage change of the adult population of the community college districts shall be compatible with the changes reported for the statewide adult population and shall be determined within the geographic boundaries of the district which shall be consistent with the geographic boundaries used to determine the assessed valuation of property within the district.

The allocation of allowable increases in average daily attendance on a district-by-district basis shall not exceed a reasonable anticipated normal growth for any district, based on information that the chancellor may receive from the district.

(3) The level of funding available for increases in average daily attendance for each district, based on increases specified in paragraph (2), shall be the sum of the following:

(A) The percentage of allowable increase in average daily attendance specified in paragraph (2) times the level of funded

noncredit average daily attendance of the preceding fiscal year times the incremental cost rate specified in subdivision (a) of Section 84702.5.

(B) The percentage of allowable increase in average daily attendance specified in paragraph (2) times the level of funded credit average daily attendance of the preceding fiscal year times the incremental cost rate specified in subdivision (b) of Section 84702.5.

(4) The chancellor shall allocate additional increases in average daily attendance for program growth in areas of statewide concern that are funded in the annual Budget Act or any other act of the Legislature, based on criteria adopted for those allocations.

(5) In the event of a deficit in funding for workload increases, all allowable increases in average daily attendance provided by this section shall be reduced proportionally.

(c) All increases in funded credited average daily attendance shall be accounted for in the following categories of the course classification system of the community colleges, as determined by the chancellor:

(1) Units of average daily attendance in courses that provide transfer credit to a baccalaureate-awarding institution.

(2) Units of average daily attendance in occupational education and vocational and technical programs and courses.

(3) Units of average daily attendance which prepare students for courses identified in paragraphs (1) and (2).

SEC. 17. (a) It is the intent of the Legislature to ensure that the imposition of a mandatory fee does not impair access to, or the quality of, California community colleges. To achieve this purpose, the Chancellor of the California Community Colleges, in consultation with the California Postsecondary Education Commission, shall conduct a study of the impact of the mandatory fee upon California community colleges. The study shall determine the fee's impact upon all of the following:

(1) Student enrollments.

(2) Ethnic distribution of students.

(3) Income distribution of students.

(4) The distribution of full-time and part-time students.

(5) Changes in the staffing requirements and costs of administration.

(6) The availability of federal, state, and other sources of financial aid to community college districts.

(7) The administration and distribution of the financial aid prescribed by this act by the chancellor's office and at the district level.

The chancellor may collect from community college districts any data necessary to conduct the study.

Based upon the study, the chancellor shall submit his or her findings and recommendations to the Joint Legislative Budget Committee and the California Postsecondary Education Commission in a progress report on or before January 1, 1987, and in a final report

on or before July 1, 1987.

(b) The chancellor shall conduct the study pursuant to subdivision (a) in consultation with an advisory committee appointed by the chancellor and composed of representatives from community college districts, the Department of Finance, and the Office of the Legislative Analyst. District representatives on the advisory committee may include students, faculty members, administrators, and governing board members.

(c) The California Postsecondary Education Commission shall submit to the Legislature its written comments and recommendations regarding the progress report and the final report filed by the chancellor pursuant to subdivision (a).

(d) The chancellor shall conduct a study on the level of noncredit courses, enrollments, and average daily attendance offered at the community colleges.

The study shall include information on the following:

(1) The number of students enrolled in noncredit courses offered at the community colleges pursuant to the categories specified in Section 84711 of the Education Code.

(2) The impact a mandatory fee would have on student enrollments in the community colleges and on enrollments in adult education programs which offer similar courses in programs operated by school districts and in regional occupational centers and programs.

The study shall be submitted to the legislative fiscal committees by no later than March 15, 1985.

SEC. 18. Notwithstanding subdivision (b) of Section 84701 of the Education Code, for the 1985–86 fiscal year only, the base revenues for each community college district shall be the revenues received for the preceding fiscal year in accordance with Section 84700 of the Education Code plus any unfunded shortage in local revenues identified pursuant to the provisions of Section 84712 of the Education Code and any shortage in revenues computed pursuant to subdivision (e) of Section 84704 and Section 84705 of the Education Code.

SEC. 19. (a) There is hereby appropriated the following sums to the Board of Governors of the California Community Colleges for the purpose of providing financial aid funds directly to low-income students who cannot afford to pay the fee specified in Section 72252 of the Education Code, and for the purpose of reimbursing districts for the amount of fees lost due to the exemption provided to students pursuant to subdivision (f) of Section 72252:

Period	Amount
July 1, 1984 to June 30, 1985	$15,000,000
July 1, 1985 to June 30, 1986	15,000,000
July 1, 1986 to June 30, 1987	15,000,000
July 1, 1987 to January 1, 1988	7,500,000

(b) The chancellor shall allocate the funds appropriated by subdivision (a) to community college districts. In prescribing the manner of allocation, the chancellor shall endeavor to ensure that students with similar characteristics shall be treated similarly with respect to the provision of financial aid pursuant to this section, regardless of the community college they attend.

In allocating funds pursuant to this section, the chancellor shall consider the number of financial aid recipients in each district and the availability of federal and other state financial aid resources.

(c) Financial aid shall be provided pursuant to this section only to those students required to pay the fee specified in Section 72252 of the Education Code, and only in an amount equal to the fee actually charged the student pursuant to that section. In addition, the chancellor shall reimburse districts for the amount of fees lost due to the exemption provided to students pursuant to subdivision (f) of Section 72252.

(d) Districts which receive an allocation of funds pursuant to this section shall utilize appropriate financial need criteria for the distribution of the funds. These criteria may include, but are not limited to, nationally accepted needs analysis methodologies, evidence of need based upon the receipt of public assistance, or other reasonable methods.

(e) The chancellor shall submit a plan made pursuant to subdivision (b) to the California Postsecondary Education Commission, the Legislative Analyst, and to the fiscal and education policy committees of each house of the Legislature by June 15, 1984.

The California Postsecondary Education Commission shall review the plan and submit its recommendations to the fiscal and education policy committees of each house of the Legislature.

(f) If the amount appropriated pursuant to this section exceeds the need for financial aid to students who cannot afford to pay the fee charged pursuant to Section 72252, the excess shall revert to the General Fund.

(g) If the amount needed for financial aid to students who cannot afford to pay the fee charged pursuant to Section 72252 and to reimburse districts for the amount of fees lost due to the exemption provided to students pursuant to subdivision (f) of Section 72252 is greater than the amount appropriated by this section, the chancellor shall certify to the Department of Finance the amount of the additional funds which are required. Upon receipt of this certification, the Director of Finance shall take any administrative action available to him or her to transfer the additional funds, pursuant to the Budget Act or otherwise.

SEC. 20. There is hereby transferred from the unencumbered balance of the Capital Outlay Fund for Public Higher Education to the General Fund the sum of twenty-eight million dollars ($28,000,000).

SEC. 21. There is hereby appropriated from the General Fund the sum of one hundred thousand dollars ($100,000) to the Chancel-

lor of the California Community Colleges for the purpose of carrying out the study required by Section 17 of this act.

The chancellor shall enter into an interagency agreement with the California Postsecondary Education Commission to reimburse the commission for the cost of carrying out the duties imposed upon the commission by Section 17 of this act.

SEC. 22. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

SEC. 23. Sections 1 to 18, inclusive, and Sections 21 and 22 of this act shall become operative July 1, 1984. Sections 19 and 20 of this act shall become operative on the effective date of this act.

CONCURRENT RESOLUTIONS

1983–84

SECOND EXTRAORDINARY SESSION

1983–84 RESOLUTION CHAPTERS

RESOLUTION CHAPTER 1

Senate Concurrent Resolution No. 2—Relative to final adjournment of the 1983–84 Second Extraordinary Session of the Legislature.

[Filed with Secretary of State February 21, 1984.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the 1983–84 Second Extraordinary Session of the Legislature shall adjourn sine die on adjournment on February 17, 1984.